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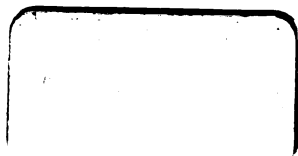
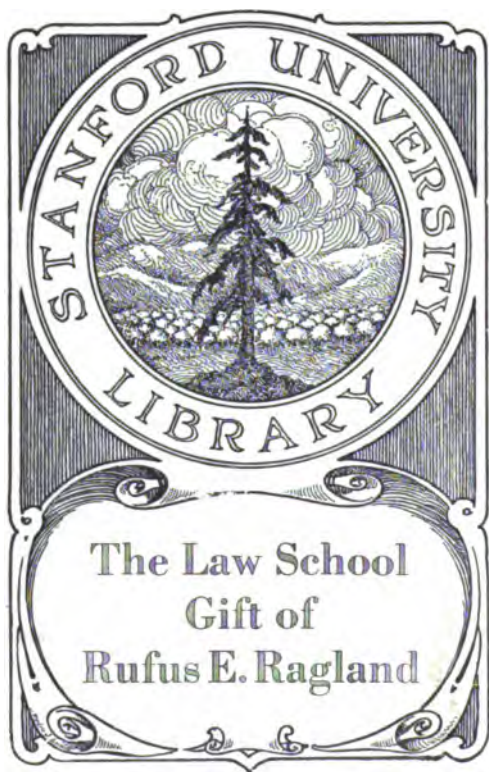
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COLLECTION OF STATUTES

CONNECTED WITH THE

General Administration of the Law;

ARRANGED ACCORDING TO THE ORDER OF SUBJECTS:

WITH NOTES,

By SIR WILLIAM DAVID EVANS, KNT.

LATE RECORDER OF BOMBAY.

The Third Edition, corrected;

COLLATED WITH THE ORIGINAL STATUTES,

AND BROUGHT DOWN TO 10 GEO. IV.

By ANTHONY HAMMOND, Esq.

OF THE INNER TEMPLE;

AND CONTINUED FROM THAT PERIOD TO THE 5 & 6 WILL. IV. INCLUSIVE,

By THOMAS COLPITTS GRANGER, Esq.

OF THE INNER TEMPLE, BARRISTER AT LAW.

IN TEN VOLUMES.

VOL. IX.

LONDON:

THOMAS BLENKARN, 19, CHANCERY LANE;

EDWARD LUMLEY, 56, CHANCERY LANE; AND

W. H. BOND, 8, BELL YARD, TEMPLE BAR.

1836.

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ADVERTISEMENT.

THE extensive alterations made in the law since the last edition of Sir WILLIAM DAVID EVANS' Collection of Statutes, have caused the present compilation to run to very considerable length; for although it may comprise some acts which might, perhaps, have been omitted, it is apprehended that its bulk could not have been materially reduced consistent with the object of rendering it a full and accurate supplement to that valuable work.

The arrangement and classification adopted by Sir WILLIAM DAVID EVANS have been followed, so that in referring to the Table of Contents it may at once be seen whether there have been any recent enactments relating to the subjects of each class. The Reform Act, and some other statutes, which do not fall under any of the divisions of the original compilation, have been added at the end.

The acts are given verbatim, except the formal words of enactment at the commencement of the first and subsequent clauses; and where, as in some few instances, only a section



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N.B. These Marks * P † denote as follows,
viz.

* That the *Title* only is inserted.

P That *Part* of the Act only is inserted.

† That an *Abstract* only is inserted.

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- [There has been no recent enactment upon this subject.]

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- [No. II.] 2 W. IV. c. 17.—An Act to repeal an Act passed in the Second Year of His late Majesty King George the Fourth, intituled "An Act to amend of Ireland respecting the Assignment and Subletting of Lands and Ten and to substitute other Provisions in lieu thereof.
- [No. III.] 3 & 4 W. IV. c. 42.—An Act for the further Amendment of and the better Advancement of Justice.
- [No. IV.] 4 W. IV. c. 22.—An Act to amend an Act of the Eleventh Year of His late Majesty King George the Second, respecting the Apportionment of Rents, Ann other periodical payments.

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- [No. II.] 1 & 2 W. VI. c. 52.—An Act to repeal an Act passed in the Fifth Year of the Reign of His Majesty King George the Third, to provide more speedy Examination, Controlling, and finally Auditing the Military of Ireland.
- [No. III.] 2 & 3 W. IV. c. 26.—An Act to authorise the Commissioners auditing the Public Accounts of Great Britain to examine and audit Accounts Receipt and Expenditure of Colonial Revenues.
- [No. IV.] 2 & 3 W. c. 99.—An Act for transferring the Powers and Duties of the Commissioners of Public Accounts in Ireland to the Commissioners auditing the Public Accounts of Great Britain.

- [No. V.] 2 & 3 W. IV. c. 103.—An Act to provide for the Examination and Audit of the Customs and Excise Revenues in Scotland. 591
- [No. VI.] 2 & 3 W. IV. c. 104.—An Act to regulate the period of rendering the Public Accounts and making up the general Imprest Certificates. *ib.*
- [No. VII.] 3 & 4 W. IV. c. 99.—An Act for facilitating the Appointment of Sheriffs, and the more effectual Audit and Passing of their Accounts, and for the more speedy Return and Recovery of Fines, Issues, forfeited Recognizances, Penalties, and Deodands; and to abolish certain Offices in the Exchequer. 592
- [No. VIII.] 4 W. IV. c. 15.—An Act to regulate the Office of the Receipt of His Majesty's Exchequer at Westminster. *ib.*
- [No. IX.] 5 & 6 W. IV. c. 55.—An Act for facilitating the Appointment of Sheriffs in Ireland, and the more effectual Audit and passing of their Accounts, and for the more speedy Return and Recovery of Fines, Fees, Forfeitures, Recognizances, Penalties, and Deodands; and to abolish certain Offices in the Court of Exchequer in Ireland; and to amend the Laws relating to Grants in Custodiam and Recovery of Debts in Ireland; and to amend an Act of the Second and Third Years of His present Majesty, for transferring the Powers and Duties of the Commissioners of Public Accounts in Ireland to the Commissioners for Auditing the Public Accounts of Great Britain. 602

PART IV.—CLASS XXIV.

Ecclesiastical and Maritime Courts.

- [No. I.] 2 W. IV. c. 51.—An Act to regulate the Practice and the Fees in the Vice-Admiralty Courts abroad, and to obviate Doubts as to their Jurisdiction. 603
- [No. II.] 2 & 3 W. IV. c. 92.—An Act for transferring the Powers of the High Court of Delegates, both in Ecclesiastical and Maritime Causes, to His Majesty in Council. 604
- [No. III.] 2 & 3 W. IV. c. 93.—An Act for enforcing the Process upon Contempts in the Courts Ecclesiastical of England and Ireland. 606

PART IV.—CLASS XXIV.—A.

Privy Council.

- [No. I.] 3 & 4 W. IV. c. 41.—An Act for the better Administration of Justice in His Majesty's Privy Council. 611

PART IV.—CLASS XXV.

Courts of Equity.

- [No. I.] 1 W. IV. c. 36.—An Act for altering and amending the Law regarding Commitments by Courts of Equity for Contempts, and the taking Bills pro Confesso. 618
- [No. II.] 11 G. IV. & 1 W. IV. c. 60.—An Act for amending the Laws respecting Conveyances and Transfers of Estates and Funds vested in Trustees and Mortgagees; and for enabling Courts of Equity to give effect to their Decrees and Orders in certain cases. 629
- [No. III.] 2 W. IV. c. 33.—An Act to effectuate the Service of Process issuing from the Courts of Chancery and Exchequer in England and Ireland respectively. *ib.*
- [No. IV.] 2 W. IV. c. 58.—An Act to extend the Provisions of an Act of the First Year of the Reign of His present Majesty, for altering and amending the Law regarding Commitments by Courts of Equity for Contempts, and the taking Bills pro confesso; and to explain certain parts thereof. 630
- [No. V.] 2 & 3 W. IV. c. 111.—An Act to abolish certain Sinecure Offices connected with the Court of Chancery, and to make Provision for the Lord High Chancellor on his Retirement from Office. 631

- [No. VI.] 2 & 3 W. IV. c. 122.—An Act for making Provision for the Lord High Chancellor of England in lieu of Fees heretofore received by him. 632
- [No. VII.] 3 & 4 W. IV. c. 84.—An Act to provide for the Performance of the Duties of certain Offices connected with the Court of Chancery which have been abolished. 638
- [No. VIII.] 3 & 4 W. IV. c. 94.—An Act for the Regulation of the Proceedings and Practice of certain Offices of the High Court of Chancery in England. 641
- [No. IX.] 4 & 5 W. IV. c. 68.—An Act to authorize an advance out of the general Fund of Monies belonging to the Suitors of the Courts of Chancery and Exchequer in Ireland, towards the Purchasing of Ground and Building thereon Offices necessary to the Courts of Justice in Dublin. 653
- [No. X.] 4 & 5 W. IV. c. 78.—An Act for the Amendment of the Proceedings and Practice of the High Court of Chancery in Ireland. 654
- [No. XI.] 4 & 5 W. IV. c. 82.—An Act to amend and extend an Act of the Second Year of His present Majesty, to effectuate the Service of Process issuing from the Courts of Chancery and Exchequer in England and Ireland. 662
- [No. XII.] 5 & 6 W. IV. c. 16.—An Act for altering and amending the Law regarding Commitments by Courts of Equity for Contemps, and the taking Bills pro Confesso in Ireland. 663
- [No. XIII.] 5 & 6 W. IV. c. 47.—An Act to repeal so much of an Act passed in the Third and Fourth Years of His present Majesty, as relates to the Amount of the Salary granted to the Clerk of the Crown in Chancery; and to make other Provisions in relation to the said Office. 672
- [No. XIV.] 5 & 6 W. IV. c. 82.—An Act to abolish certain Offices connected with Fines and Recoveries, and the Cursitors in the Court of Chancery, and to make Provision for the Abolition of certain Offices in the Superior Courts of Common Law in England. 674

PART IV.—CLASS XXVI.

Coroner.

[It has been for some time in contemplation to revise the laws relating to coroners but such revision had not as yet been effected.]

PART IV.—CLASS XXVII.

Warden.

[There has been no recent statute relating to this class.]

PART IV.—CLASS XXVIII.

Bankrupts.

- [No. I.] 1 & 2 W. IV. c. 56.—An Act to establish a Court of Bankruptcy. 675
- [No. II.] 1 & 2 W. IV. c. 114.—An Act to amend the Laws relating to Bankrupts. 689
- [No. III.] 3 & 4 W. IV. c. 47.—An Act to authorize His Majesty to give further Powers to the Judges of the Court of Bankruptcy, and to direct the times of Sitting of the Judges and Commissioners of the said Court. 693
- [No. IV.] 5 & 6 W. IV. c. 29.—An Act for investing in Government Securities a Portion of the Cash lying unemployed in the Bank of England belonging to Bankrupts' Estates, and applying the Interest thereon in discharge of the Expences of the Court of Bankruptcy, and for the Relief of the Suitors in the said Court; and for removing Doubts as to the Extent of the Powers of the Court of Review and of the Subdivision Courts. 695

PART V.

CRIMINAL LAW.

CLASS I.

Statutes relating to Religion and Ecclesiastical Authority.

- [No. I.] 1 & 2 W. IV. c. 49.—An Act to repeal so much of an Act passed in Ireland in the Fourth Year of King George the First, for the better regulating the Town of Galway, and for strengthening the Protestant Interest therein, as limits the Franchise created by the said Act to Protestants only. 706
- [No. II.] 2 W. IV. c. 7.—An Act for the Relief of His Majesty's Subjects in Ireland being Protestants of the Established Church, and to repeal an Act passed in the Parliament of Ireland in the Thirty-third Year of the Reign of His Majesty King George the Third, intituled "An Act to remove some doubts respecting Persons in Office taking the Sacramental Test." *ib.*
- [No. III.] 3 & 4 W. IV. c. 37.—An Act to alter and amend the Laws relating to the Temporalities of the Church in Ireland. 708
- [No. IV.] 4 & 5 W. IV. c. 41.—An Act to regulate the Appointment of Ministers to Churches in Scotland erected by voluntary Contributions. 770
- [No. V.] 4 & 5 W. IV. c. 90.—An Act to amend an Act made in the Third and Fourth Year of the Reign of His present Majesty, intituled "An Act to alter and amend the Laws relating to the Temporalities of the Church of Ireland." 771
- [No. VI.] 5 & 6 W. IV. c. 30.—An Act for Protecting the Revenues of vacant Ecclesiastical Dignities, Prebends, Canonries, and Benefices, without cure of Souls, and for Preventing the lapse thereof during the pending inquiries respecting the state of the Established Church of England and Wales. 791

PART V.—CLASS II.

Treason and other Offences affecting the State.

- [No. I.] 3 & 4 W. IV. c. 4.—An Act for the more effectual suppression of Local Disturbances and Dangerous Associations in Ireland. 792
- [No. II.] 4 & 5 W. IV. c. 38.—An Act to continue under certain Modifications to the First day of August, 1835, an Act of the Third Year of His present Majesty, for the more effectual suppression of Local Disturbances and Dangerous Associations in Ireland. *ib.*
- [No. III.] 4 & 5 W. IV. c. 48.—An Act for the better Prevention and more speedy Punishment of Offences endangering the Public Peace in Ireland. *ib.*

PART V.—CLASS III.

Offences relating to Coin and Bullion.

- 2 W. IV. c. 34.—An Act for consolidating and amending the Laws against Offences relating to the Coin. 796

PART V.—CLASS IV.

Homicide.

- [There has been no recent provision on this subject.]

PART V.—CLASS V.

Rape, Polygamy, Forcible Marriage, &c.

[There have been no recent enactments upon the subjects of this c. ass.]

PART V.—CLASS VI.

Riots and Offences attended with Malice or Violence.

- [No. I.] 1 & 2 W. IV. c. 44.—An Act to amend an Act passed in the Parliament of Ireland, in the Fifteenth and Sixteenth Years of the Reign of His Majesty King George the Third, intituled “An Act to prevent and punish tumultuous Risings of Persons within this Kingdom, and for other Purposes therein mentioned. 805
- [No. II.] 2 & 3 W. IV. c. 118.—An Act to restrain for Five Years, in certain Cases, Party Processions in Ireland. 809

PART V.—CLASS VII.

Larceny, [Burglary,] Robbery, Assault, with Intent to Rob, Child Stealing, [Sacrilege.]

- [No. I.] 2 & 3 W. IV. c. 62.—An Act for abolishing the Punishment of Death in certain Cases, and substituting a lesser Punishment in lieu thereof. 811
- [No. II.] 3 & 4 W. IV. c. 44.—An Act to repeal so much of two Acts of the Seventh and Eighth Years and the Ninth Year of King George the Fourth as inflicts the Punishment of Death upon Persons breaking, entering, and stealing in a Dwelling-house; also for giving Power to the Judges to add to the Punishment of Transportation for Life in certain Cases of Forgery, and in certain other Cases. 812
- [No. III.] 5 & 6 W. IV. c. 34.—An Act to amend Two clerical Errors contained in an Act passed in the Ninth Year of the Reign of His late Majesty King George the Fourth, intituled “An Act for consolidating and amending the Laws in Ireland relative to Larceny and other Offences connected therewith.” 813
- [No. IV.] 5 & 6 W. IV. c. 61.—An Act for abolishing Capital Punishments in cases of Letter Stealing and Sacrilege. ib.

PART V.—CLASS VIII.

Offences relating to Stolen Goods.

[There has been no act since the 7 & 8 G. IV. c. 29 (see *Evans's Statutes, Part V. Class VII.*, relating to the receiving of stolen goods.)]

PART V.—CLASS IX.

Embezzlements by Agents and Public Officers.

- [No. I.] 2 W. IV. c. 4.—An Act for more effectually preventing Embezzlements by Persons employed in the Public Service of His Majesty. 814

PART V.—CLASS X.

Embezzlement of Public Stores.

[The 55 G. III. c. 127, was the last act on this subject.] (See 6 *Evans's Statutes, Part V. Class IX.*)

PART V.—CLASS XI;

False Pretences.

[There has been no enactment relating to this head subsequent to the 7 & 8 G. IV. c. 29. See 6 *Evans's Statutes*, Part V. Class VII.]

PART V.—CLASS XII.

Forgery.

- [No. I.] 1 W. IV. c. 66.—An Act for reducing into One Act all such Forgeries as shall henceforth be punished with Death, and for otherwise amending the Laws relative to Forgery. 816
- [No. II.] 2 & 3 W. IV. c. 123.—An Act for abolishing the Punishment of Death in certain cases of Forgery. 828
- [No. III.] 3 & 4 W. IV. c. 44.—An Act to repeal so much of Two Acts of the Seventh and Eighth Years and the Ninth Year of King George the Fourth as inflicts the Punishment of Death upon Persons breaking, entering, and stealing in a Dwelling-house; also for giving Power to the Judges to add to the Punishment of Transportation for Life in certain cases of Forgery, and in certain other cases. 829
- [No. IV.] 3 & 4 W. IV. c. 47.—An Act to prevent the Selling and Uttering of Forged Stamps, and to exempt from Stamp Duty Artificial Mineral Waters in Great Britain, and to allow a Drawback in the exportation of Gold and Silver Plate Manufactured in Ireland. *ib.*
- [No. V.] 5 & 6 W. IV. c. 73.—An Act to provide that Persons accused of Forgery in Scotland shall not be entitled to Bail, unless in certain Cases. *ib.*

PART V.—CLASS XIII.

Piracy and Offences committed on the High Seas.

[The 6 G. IV. c. 59, was the last statute relating to piracy.]

PART V.—CLASS XIV.

Felony relating to the Revenue.

- [No. I.] 3 & 4 W. IV. c. 51.—An Act for the Management of the Customs. 831
- [No. II.] 3 & 4 W. IV. c. 53.—An Act for the Prevention of Smuggling. *ib.*
- [No. III.] 3 & 4 W. IV. c. 97.—An Act to prevent the selling and uttering of forged Stamps, and to exempt from Stamp Duty artificial Mineral Waters in Great Britain, and to allow a Drawback on the exportation of Gold and Silver Plate manufactured in Ireland. 832
- [No. IV.] 5 & 6 W. IV. c. 81.—An Act for abolishing Capital Punishments in Cases of Letter Stealing and Sacrilege. 834

PART V.—CLASS XV.

Offences relating to Quarantine.

[There has been no statute upon this subject since the 6 G. IV. c. 78.] 836

PART V.—CLASS XVI.

Felony relating to the Slave Trade.

- [No. I.] An Act to reduce the Rates of Bounties payable upon the Seizure of Slaves. 837
- [No. II.] An Act for carrying into effect Two Conventions with the King of the French for suppressing the Slave Trade. *ib.*
- [No. III.] 3 & 4 W. IV. c. 73.—An Act for the abolition of Slavery throughout the British Colonies; for promoting the Industry of the the mannmitted Slaves; and for compensating the Persons hitherto entitled to the services of such slaves *ib.*
- [No. IV.] 5 & 6 W. IV. c. 45.—An Act to carry into further execution the Provisions of an Act passed in the Third and Fourth Years of His present Majesty, for compensating Owners of slaves, upon the Abolition of slavery. 856
- [No. V.] 5 & 6 W. IV. c. 60.—An Act for carrying into effect a Treaty with the King of the French, and the King of Sardinia for suppressing the Slave Trade. 862
- [No. VI.] 5 & 6 W. IV. c. 61.—An Act for carrying into effect the Treaty with the King of the French and the King of Denmark for suppressing the Slave Trade. *ib.*

PART V.—CLASS XVII.

Escapes and Rescue.

[There has been no recent enactment upon these subjects.]

PART V.—CLASS XVIII.

Perjury.

- [No. I.] 5 & 6 W. IV. c. 62.—An Act to repeal an Act of the session of Parliament, intituled “An Act for the more effectual Abolition of Oaths and Affirmations taken and made in various Departments of the State, and to substitute Declarations in lieu thereof, and for the more entire suppression of voluntary and extrajudicial Oaths and Affidavits;” and to make other Provisions for the Abolition of unnecessary Oaths. 863

PART V.—CLASS XIX.

Seducing Artificers and exporting Utensils.

- [No. I.] 3 & 4 W. IV. c. 52.—An Act for the general Regulation of the Customs. 868

PART V.—CLASS XX.

Offences respecting Elections of Members of Parliament.

[See the Reform Act, *post.* Part IX.]

PART V.—CLASS XXI.

Libels, &c.

- [No. I.] 1 W. IV. c. 73.—An Act to repeal so much of an Act of the Sixtieth Year of His late Majesty King George the Third, for the more effectual Prevention

and Punishment of blasphemous and seditious Libels, as relates to the Sentence of Banishment for the Second Offence : and to provide some further Remedy against the abuse of publishing Libels. 870

PART V.—CLASS XXII.

Nuisances.

[See ante Part IV. Class VIII. 3 & 4 W. IV. c. 27, s. 36.]

PART V.—CLASS XXIII.

Maintenance, Champerty, Liveries.

[There has been no modern statute upon these subjects.]

PART V.—CLASS XXIV.

Miscellaneous Offences.

[No. 1.] 1 & 2 W. IV. c. 55.—An Act to consolidate and amend the Laws for suppressing the Illicit making of Malt and Distillation of Spirits in Ireland. 871

PART V.—CLASS XXIV.—A.

New Central Criminal Court.

[No. 1.] 4 & 5 W. IV. c. 36.—An Act for establishing a new Court for the Trial of Offences committed in the Metropolis and parts adjoining 872

PART V.—CLASS XXV.

Criminal Proceedings.

[No. I.] 11 G. IV. c. 25.—An Act to repeal an Act of the Fifty-fifth Year of His late Majesty, for procuring Returns of Persons committed, tried, and convicted for Criminal Offences and Misdemeanors. 880

[No. II.] 1 W. IV. c. 37.—An Act to amend an Act of the Ninth Year of His late Majesty King George the Fourth, to facilitate Criminal Trials in Scotland, and to abridge the period now required between the pronouncing of Sentence and Execution thereof, in Cases importing a Capital Punishment. *ib.*

[No. III.] 1 W. IV. c. 39.—An Act to amend an Act passed in the Fifth Year of His present Majesty, for the Transportation of Offenders from Great Britain ; and for punishing Offences committed by Transports kept to labour in the Colonies. 886

[No. IV.] 1 W. IV. c. 57.—An Act to explain and amend an Act of the Fifty-fifth Year of King George the Third, for the Payment of Costs and Charges to prosecutors and witnesses in Cases of Felony in Ireland. 889

[No. V.] 3 & 4 W. IV. c. 79.—An Act to provide for the more impartial Trial of Offences in certain Cases in Ireland. 890

[No. VI.] 4 & 5 W. IV. c. 26.—An Act to abolish the Practice of Hanging the Bodies of Criminals in Chains. 891

[No. VII.] 4 & 5 W. IV. c. 27.—An Act for the better Administration of Justice in certain Boroughs and Franchises. 892

[No. VIII.] 4 & 5 W. IV. c. 67.—An Act for abolishing Capital Punishment in case of returning from Transportation. 893

[No. IX.] 5 W. IV. c. 1.—An Act to explain an Act of the First Year of His present Majesty, for the more effectual Administration of Justice in England and Wales, so far as relates to the execution of Criminals in the County of Chester 894

- [No. X.] 5 & 6 W. IV. c. 33.—An Act for preventing the vexatious removal of Indictments into the Court of King's Bench; and for extending the Provisions of an Act of the Fifth Year of King William and Queen Mary, for preventing Delays at the Quarter Sessions of the Peace, to other Indictments; and for extending the provisions of an Act of the Seventh Year of King George the Fourth, as to taking Bail in Cases of Felony 895

PART VI.

JUSTICES OF THE PEACE.

CLASS I.

Ale-Houses.

- [No. I.] 1 W. IV. c. 51.—An Act to repeal certain of the Duties on Cyder in the United Kingdom, and on Beer and Ale in Great Britain, and to make other Provisions in relation thereto. 897
 [No. II.] 1 W. IV. c. 64.—An Act to permit the general Sale of Beer and Cyder by retail in England. 907
 [No. III.] 3 & 4 W. IV. c. 68.—An Act to amend the Laws relating to the Sale of Wine, Spirits, Beer, and Cyder by retail in Ireland. 918
 [No. IV.] 4 & 5 W. IV. c. 85.—An Act to amend an Act passed in the First Year of His present Majesty, to permit the general Sale of Beer and Cyder by Retail in England. 927

PART VI.—CLASS II.

Apprentices, Young Persons Employed in Factories, &c.

- [No. I.] 1 & 2 W. IV. c. 39.—An Act to repeal the Laws relating to Apprentices and other Young Persons employed in Cotton Factories and in Cotton Mills, and to make further Provisions in lieu thereof. 934
 [No. II.] 3 & 4 W. IV. c. 63.—An Act to render valid Indentures of Apprenticeship allowed only by Two Justices acting for the County in which the Parish from which such Apprentices shall be bound, and for the County in which the Parish into which such Apprentices shall be bound, shall be situated; and also for remedying defective Executions of Indentures by Corporations. 937
 [No. III.] 3 & 4 W. IV. c. 103.—An Act to regulate the Labour of Children and young Persons in the Mills and Factories of the United Kingdom. 939
 [No. IV.] 4 W. IV. c. 1.—An Act to explain and amend an Act of the last Session of Parliament, for regulating the Labour of Children and Young Persons in the Mills and Factories of the United Kingdom. 950
 [No. V.] 4 & 5 W. IV. c. 35.—An Act for the better Regulation of Chimney Sweepers and their Apprentices, and for the safer Construction of Chimneys and Flues. *ib.*

PART VI.—CLASS III.

Banks Destroying, and other Trespasses.

[There have been no recent acts upon these subjects.]

PART VI.—CLASS IV.

Bastards.

- [For the provisions of the 4 & 5 W. IV. c. 76. relating to Bastards, see post, Part VI. Class XXVIII. title Poor.]

PART VI.—CLASS V.

Bent.

[See the act amending the Laws relating to Sewers, *ante*, Part IV. Class XVI. title *Inferior Courts.*]

PART VI.—CLASS V.—A.

Bread.

[No. I.] 2 W. IV. c. 31. An Act to regulate the Baking Trade in Ireland. . 958

PART VI.—CLASS VI.

Bridges.

[No. I.] 4 & 5 W. IV. c. 61. An Act for the more effectually providing for the Erection of certain Bridges in Ireland. . 960

PART VI.—CLASS VII.

Carriers.

[No. I.] 1 W. IV. c. 68. An Act for the more effectual protection of Mail Contractors, Stage Coach Proprietors, and other Common Carriers for hire, against the loss of or injury to Parcels or Packages delivered to them for conveyance or custody, the value and contents of which shall not be declared to them by the Owners thereof. 968

[No. II.] 5 & 6 W. IV. c. 53. An Act to repeal an Act of the Ninth Year of His late Majesty, for regulating the Carriage of Passengers in Merchant Vessels from the United Kingdom to the British Possessions on the Continent and Islands of North America; and to make further Provisions for regulating the Carriage of Passengers from the United Kingdom. *ib.*

PART VI.—CLASS VII.—A.

Cattle.

[No. I.] 5 & 6 W. IV. c. 69. An Act to consolidate and amend the several Laws relating to the cruel and improper Treatment of Animals, and the Mischiefs arising from the driving of Cattle, and to make other Provisions in regard thereto. . 969

PART VI.—CLASS VIII.

Coal Mines.

[There has been no recent enactment upon this subject.]

PART VI.—CLASS IX.

Constables.

[No. I.] 1 & 2 W. IV. c. 41. An Act for amending the Laws relative to the Appointment of Special Constables, and for the better Preservation of the Peace. 976

CONTENTS.

- [No. II.] 2 & 3 W. IV. c. 108. An Act for amending the Laws in Ireland relative to the Appointment of Special Constables, and for the better Preservation of the Peace. 981
- [No. III.] 5 & 6 W. IV. c. 43. An Act for enlarging the Powers of Magistrates in the Appointment of Special Constables 985

PART VI.—CLASS X.

Costs.

- [There has been no recent enactment relating to costs in criminal cases.]

PART VI.—CLASS XI.

County Rate.

- [No. I.] 1 W. IV. c. 61. An Act to regulate the Applotment of County Rates and Cesses in Ireland, in certain Cases. 987
- [No. II.] 4 & 5 W. IV. c. 48. An Act to regulate the Expenditure of County Rates and Funds in aid thereof. 990

PART VI.—CLASS XII.

Distress..

- [For the enactments relating to distresses for rent, see *ante*, Part IV. Class XIX.]

PART VI.—CLASS XIII.

Dogs.

- [See *ante*, Part VI. Class VII. title CATTLE.]

PART VI.—CLASS XIV.

Examination.

- [There has been no late statute relative to examinations in criminal cases.]

PART VI.—CLASS XV.

Fireworks.

- [There is no recent enactment relating to this subject.]

PART VI.—CLASS XVI.

Fish.

- [No. I.] 4 W. IV. c. 20. An Act to explain and amend an Act passed in the Thirty-third Year of the Reign of His late Majesty King George the Second, to regulate the Conveyance and Sale of Fish at First Hand. 992

PART VI.—CLASS XVII.

Forcible Entry.

[There has been no recent statute upon this subject.]

PART VI.—CLASS XVIII.

Friendly Societies and Foundling Hospitals.

- [No. I.] 2 W. IV. c. 37. An Act to amend an Act of the Tenth Year of His late Majesty King George the Fourth, by extending the time within which pre-existing Societies must conform to the Provisions of that Act 993
- [No. II.] 4 & 5 W. IV. c. 40. An Act to amend an act of the Tenth Year of His late Majesty King George the Fourth to consolidate and amend the Laws relating to Friendly Societies. 994
- [No. III.] 5 & 6 W. IV. c. 23. An Act for the Establishment of Loan Societies in England and Wales; and to extend the provisions of the Friendly Societies Acts to the Islands of Guernsey, Jersey and Man. 998

PART VI.—CLASS XIX.

Game.

- [No. I.] 1 & 2 W. IV. c. 32. An Act to amend the Laws in England relative to Game 1002
- [No. II.] 2 & 3 W. IV. c. 68 —An Act for the more effectual Prevention of Trespasses upon Property by Persons in pursuit of Game in that part of Great Britain called Scotland. 1016

PART VI.—CLASS XX.

Gaming.

[See ante, Part III., Class V., Usury, and post. 321.]

PART VI.—CLASS XXI.

Gaols and Houses of Correction.

- [No. I.] 5 & 6 W. IV. c. 38.—An Act for effecting greater Uniformity of Practice in the government of the several Prisons in England and Wales; and for appointing Inspectors of Prisons in Great Britain. 1021

PART VI.—CLASS XXII.

Highways.

- [No. I.] 4 & 5 W. IV. c. 50.—An Act to consolidate and amend the Laws relating to Highways in that part of Great Britain called England. 1025

PART VI.—CLASS XXIII.

Justices of the Peace.

- [No. I.] 2 & 3 W. IV. c. 117.—An Act to amend the Law relating to the Appointment of Justices of the Peace, and of Juries, in the East Indies. 1071

- [No. II.] 3 W. IV. c. 19.—An Act for the more effectual Administration of Justice in the Office of a Justice of the Peace in the several Police Offices established in the Metropolis, and for the more effectual Prevention of Depredations on the River Thames and its Vicinity, for Three Years. 1071
- [No. III.] 4 & 5 W. IV. c. 43.—An Act to authorize Persons duly appointed to act as Justices of the Peace in the Islands of Scilly, although not qualified according to Law. 1092
- [No. IV.] 4 & 5 W. IV. c. 27.—An Act for the better Administration of Justice in certain Boroughs and Franchises. *ib.*
- [No. V.] 4 & 5 W. IV. c. 93.—An Act to amend the Laws relating to Appeals against Summary Convictions before Justices of the Peace in Ireland. 1093

PART VI.—CLASS XXIV.

Lord's Day.

- [Several bills have of late years been introduced into the House of Commons for the better observance of the Lord's Day, but no enactment has as yet been made upon the subject.]

PART VI.—CLASS XXV.

Lunatics.

- [No. I.] 11 G. IV. c. 1.—An Act to authorize the Transfer of certain Balances in the Hands of the Clerks of the Peace of the several Counties of England and Wales on account of Lunatic Asylums Licences. 1094
- [No. II.] 11 G. IV. c. 22.—An Act for appropriating the Richmond Lunatic Asylum in Dublin for the purposes of a District Lunatic Asylum. *ib.*
- [No. III.] 1 W. IV. c. 13.—An Act to amend an Act passed in the eleventh Year of the reign of his late Majesty King George the Fourth, intituled "An Act for appropriating the Richmond Lunatic Asylum in Dublin to the purposes of a District Lunatic Asylum." *ib.*
- [No. IV.] 2 & 3 W. IV. c. 107.—An Act for regulating for Three Years, and from thence until the end of the then next Session of Parliament, the Care and Treatment of Insane Persons in England. 1095
- [No. V.] 3 & 4 W. IV. c. 36.—An Act to diminish the Inconvenience and Expence of Commissions in the Nature of Writs De lunatico inquirendo; and to provide for the better Care and Treatment of Idiots, Lunatics, and Persons of unsound Mind, found such by Inquisition. 1118
- [No. VI.] 3 & 4 W. IV. c. 64.—An Act to amend an Act of the Second and Third Year of his present Majesty, for regulating the Care and Treatment of Insane Persons in England. 1121

PART VI.—CLASS XXVI.

Pawnbrokers.

- [The has been no recent Act relating to Pawnbrokers.]

PART VI.—CLASS XXVII.

Players.

- [For the 3 W. IV. c. 15, amending the Laws relating to Dramatic Literary Property, see Part II. Class I.]

PART VI.—CLASS XXVIII.

Poor.

- [No. I.] 11 G. IV. c. 5.—An Act to repeal the Provisions of certain Acts relating to the Removal of vagrant and poor Persons born in the Isles of Jersey and Guernsey, and chargeable to Parishes in England; and to make other Provisions in lieu thereof. 1124
- [No. II.] 1 W. IV. c. 18.—An Act to explain and amend an Act of the Sixth Year of his late Majesty King George the Fourth, as far as regards the Settlement of the Poor by the renting and Occupation of Tenements. *ib.*
- [No. III.] 1 & 2 W. IV. c. 42.—An Act to amend an Act of the Fifty-ninth Year of his Majesty King George the Third for the Relief and Employment of the Poor. 1125
- [No. IV.] 1 & 2 W. IV. c. 59.—An Act to enable Churchwardens and Overseers to inclose Land belonging to the Crown for the Benefit of Poor Persons residing in the Parish in which such Crown Land is situated. *ib.*
- [No. V.] 2 W. IV. c. 42.—An Act to authorize (in Parishes inclosed under any Act of Parliament) the Letting of the Poor Allotments in small portions to Industrious Cottagers. *ib.*
- [No. VI.] 3 & 4 W. IV. c. 40.—An Act to repeal certain Acts relating to the Removal of Poor Persons born in Scotland and Ireland, and chargeable to parishes in England, and to make other provisions in lieu thereof, until the first day of May one thousand eight hundred and thirty-six, and to the end of the then next Session of Parliament. 1126
- [No. VII.] 4 & 5 W. IV. c. 76.—An Act for the Amendment and better Administration of the Laws relating to the Poor in England and Wales. 1129
- [No. VIII.] 5 & 6 W. IV. c. 69.—An Act to facilitate the Conveyance of Work-houses and other Property of parishes and of Corporations or Unions of parishes in England and Wales. 1164

PART VI.—CLASS XXIX.

Rivers and Navigation.

- [No. I.] 1 & 2 W. IV. c. 57.—An Act to empower Landed Proprietors in Ireland to sink, embank, and remove Obstructions in Rivers. 1172
- [No. II.] 5 & 6 W. IV. c. 67.—An Act for the Improvement of the Navigation of the River Shannon. 1215

PART VI.—CLASS XXX.

Seditious Meetings, &c.

- [There has been no recent statute upon this subject.]

PART VI.—CLASS XXXI.

Servants.

- [No. I.] 1 & 2 W. IV. c. 36.—An Act to repeal several Acts and parts of Acts prohibiting the payment of Wages in Goods, or otherwise than in the Current Coin of the Realm. 1216
- [No. II.] 1 & 2 W. IV. c. 37.—An Act to prohibit the payment, in certain Trades, of Wages in Goods, or otherwise than in the current Coin of the Realm. 1218

. PART VI.—CLASS XXXII.

Sessions.[See the 1 W. IV. c. 70, s. 25, *ante* Part IV. Class I.]

PART VI.—CLASS XXXIII

Sheep.[For the recent statute 5 & 6 W. IV. c. 59, see *ante* Part VI. Class VII.]

PART VI.—CLASS XXXIV.

Stage [and Hackney] Coaches.

- [No. I.] 1 W. IV. c. 68.—An Act for the more effectual protection of Mail Contractors, Stage Coach Proprietors, and other common Carriers for hire against the loss of or injury to parcels or packages delivered to them for conveyance or custody, the value and contents of which shall not be declared to them by the Owners thereof. 1227
- [No. II.] 1 & 2 W. IV. c. 22.—An Act to amend the Law relating to Hackney Carriages, and to Waggon and Carts used in the Metropolis; and to place the collection of Duties on Hackney Carriages and on Hawkers and Pedlars in England under the Commissioners of Stamps. *ib.*
- [No. III.] 2 & 3 W. IV. c. 120.—An Act to repeal the Duties under the Management of the Commissioners of Stamps on Stage Carriages and on Horses let for hire in Great Britain, and to grant other Duties in lieu thereof; and also to consolidate and amend the Laws relating thereto. 1253
- [No. IV.] 3 & 4 W. IV. c. 48.—An Act to amend an Act of the second and third Years of his present Majesty, relating to Stage Carriages in Great Britain; and also to explain and amend an Act of the first and second Years of his present Majesty, relating to Hackney Carriages used in the Metropolis. 1299

PART VI.—CLASS XXXV.

Swearing.[There has been no recent statute relating to this offence. For the Acts for the Abolition of Oaths, see *ante* Part IV. Class X.]

PART VI.—CLASS XXXVI.

Tithes.

[No. I.] 5 & 6 W. IV. c. 74.—An Act for the more easy recovery of Tithes. 1301

PART VI.—CLASS XXXVII.

Turnips and other Field Crops.[For the Larceny Consolidation Act, 7 & 8 G. IV. c. 29, see *Evans's Statutes*, 6 vol. p. 49 s. For the 5 & 6 W. IV. c. 75, see *ante* Part II. Class II. and *post*. 121.]

PART VI.—CLASS XXXVIII.

Vagrants.

[The 5 G. IV. c. 83, was the last statute on this subject.]

PART VI.—CLASS XXXIX.

Weights and Measures.

- [No. I.] 4 & 5 W. IV. c. 49.—An Act to amend and render effectual Two Acts of the fifth and sixth Years of the reign of his late Majesty King George the Fourth relating to Weights and Measures. 1302
- [No. II.] 5 & 6 W. IV. c. 63.—An Act to repeal an Act of the fourth and fifth Year of his present Majesty relating to Weights and Measures, and to make other Provisions instead thereof. *ib.*

PART VII.

MISCELLANEOUS.

- CLASS I. *Annual Indemnity Act.*
- II. *Mutiny Act.*
- III. *Billeting Act.*
- IV. *Disembodied Militia Act*
- V. *Marine Act.*

[All of the above Statutes have been regularly re-enacted every Session, with the exception of the last Billeting Act, 10 G. IV. c. 9, the provisions of which have been incorporated with the Mutiny Act.] 1316

PART VIII.

THE UNION ACTS.

- CLASS I. *Union between England and Scotland.*
- II. *Union between Great Britain and Ireland.*

[See post, Part IX.]

PART IX.

STATUTES RELATING TO THE REPRESENTATION.

- [No. I.] 2 W. IV. c. 45.—An Act to amend the Representation of the People in England and Wales. 1317
- [No. II.] An Act to settle and describe the Divisions of Counties and the Limits of Cities and Boroughs, in England and Wales, in so far as respects the Election of Members to serve in Parliament. 1360
- [No. III.] 5 & 6 W. IV. c. 36.—An Act to limit the time of taking the Poll in Boroughs at contested Elections of Members to serve in Parliament to One Day. *ib.*

- [No. IV.] 2 & 3 W. IV. c. 65.—An Act to amend the Representation of the People in Scotland. 1362
- [No. V.] 4 & 5 W. IV. c. 88.—An Act for the more effectual Registration of Persons entitled to vote in the Election of Members to serve in Parliament in Scotland. *ib.*
- [No. VI.] 5 & 6 W. IV. c. 78.—An Act to explain and amend an Act passed in the Second and Third Year of the Reign of King William the Fourth, for amending the Representation of the People in Scotland and to diminish the Expences there. *ib.*
- [No. VII.] 2 & 3 W. IV. c. 88.—An Act to amend the Representation of the People of Ireland. *ib.*

PART X.

Supplementary Miscellaneous Statutes.

- [No. I.] 2 & 3 W. IV. c. 75.—An Act for regulating Schools of Anatomy. 1363
- [No. II.] 3 & 4 W. IV. c. 70.—An Act to alter and amend an Act of the Forty-first Year of His Majesty King George the Third, for the better Regulation of Public Notaries in England. 1366
- [No. III.] 3 & 4 W. IV. c. 90.—An Act to repeal an Act of the Eleventh Year of His late Majesty King George the Fourth, for the lighting and watching of Parishes in England and Wales, and to make other Provisions in lieu thereof. 1367
- [No. IV.] 5 W. IV. c. 2.—An Act to amend an Act of the Thirty-eighth Year of King George the Third, for preventing the Mischiefs arising from the printing and publishing Newspapers, and Papers of a like Nature, by persons not known, and for regulating the Printing and Publication of such Papers in other respects; and to discontinue certain Actions commenced under the Provisions of the said act. 1389
- [No. V.] 6 W. IV. c. 4.—An Act to amend an Act of the last Session for abolishing Capital Punishments in Cases of Letter Stealing and Sacrilege. 1391

ERRATA.

Page.

- 136 For "1 & 2 W. IV. c. 57," read "2 & 3 W. 4, c. 57."
- 146 1st line, for "In" read "For."
- 267 For "3 & 4 W. IV. c. 51" read "4 & 5 W. IV. c. 51."
- 320 9th line from the top for "See" read "For."
- 348 9th line from the top for "In" read "For."
- 353 For "3 & 4 W. IV. c. 31" read "4 & 5 W. c. 31."
- 689 For "1 & 2 W. IV. c. 114" read "2 & 3 W. IV. c. 114."
- 792 For "4 & 5 W. IV. c. 48" read "5 & 6 W. IV. c. 48."
- 1025 For "4 & 5 W. IV. c. 50" read "5 & 6 W. IV. c. 50."

A SUPPLEMENT
TO THE
Collection of the Statutes,
CONNECTED WITH THE
GENERAL ADMINISTRATION OF THE LAW.

PART I.
Of Persons and Corporations.

- CLASS I.** Of Aliens, Denizens, and Naturalization.
2. — Statutes relating to the Clergy.
 3. — Marriage.
 4. — Parent and Child.
 5. — Corporations.

CLASS I.

[There has been no statute passed on the subjects of this class since the last Alien act, 7 G. 4, c. 54.]

PART I.

CLASS II.

STATUTES RELATING TO THE CLERGY.

[No. I.] 1 and 2 W. 4, c. 38.—An Act to amend and render more effectual an Act passed in the Seventh and Eighth Years of the Reign of His late Majesty, intituled *An Act to amend the Acts for building and promoting the building of additional Churches in populous Parishes.*

[15th October 1831]

WHEREAS, &c. [Recites the titles of the 58 G. 3, c. 45, 59 G. 3, c. 134, 3 G. 4, c. 72, 5 G. 4, c. 103, 7 & 8 G. 4 c. 72.] And whereas by the said recited act passed in the fifth year of the reign of his late Majesty it was amongst other things enacted, that with a view to afford facility to the erection of churches and chapels it should be lawful for certain persons building or purchasing the same, and endowing them with pew rents, to nominate for forty years spiritual persons to serve such churches or chapels respectively, subject to the consent of the bishop of the diocese, and to certain regulations therein provided: and whereas by the said recited act passed in the seventh and eighth years of the reign of his late Majesty further encouragement was given to the same object by authorizing his Majesty's commissioners for building new churches to declare that any person or persons building a chapel and endowing the same to the satisfaction of the said commissioner with some permanent provision in land or monies in the funds, should have the perpetual right of nominating the minister to serve the same; and whereas the said provisions of the said last-recited act have been found insufficient for such their purposes, and require amendment, in order to provide more effectually for the improved pastoral superintendence of his Majesty's subjects: be it therefore enacted, &c. that much of the said recited act passed in the seventh and eighth years of the reign of his late Majesty as authorizes the said commissioners to declare, in the cases therein provided, the right of nominating the spiritual persons to serve the chapels therein named respectively to be in the person or persons building and endowing the same, his, her, or their heirs and assigns or appointees, shall be and the same is hereby repealed.

So much of 7 & 8 G. 4, c. 72, as authorizes the commissioners in certain cases to declare the right of nominating,

In parishes where the population amounts to 2,000, and the churches do not afford accommodation, or where 300 persons reside more than two miles from the church, if any person shall declare his intention of building a church or chapel, according to the conditions herein mentioned, the bishop may declare

II. That in all parishes and extra-parochial places the population which, according to the returns then last made in pursuance of any act of parliament, shall amount to two thousand persons, and in which the existing churches or chapels do not afford accommodation for more than one third of the inhabitants for the attendance upon Divine Service according to the rites of the united church of England and Wales, and also in all parishes and extra-parochial places in which the population, whatever may be the amount of the whole population, shall be resident upwards of two miles from any such existing church or chapel and within one mile of the site upon which a new church or chapel is proposed to be erected under the provisions of this act, where any person or persons belonging to the church of England shall declare his, her, or their intention of building a church or chapel, or purchasing any building fit in all respects to be used as a church or chapel for the performance of Divine Service as aforesaid, or where a church or chapel has already been built on the faith of the said recited act of the seventh and eighth years of the reign of King George the Fourth, in such a situation within the said parish or place as shall be adapted to the convenience of that part of the inhabitants for whom the right of nominating to be in such person or his trustees.

additional accommodation is necessary, and where such person or persons shall declare their intention of providing a sum of one thousand pounds at the least by way of endowment for such church or chapel, to be secured upon lands or money in the funds, in addition to the pew rents and profits arising from the said church or chapel, in case any such rents shall be taken, and shall also declare his, her, or their intention of providing a fund for the repairs of the said church or chapel, in manner following, (namely,) one sum, equal in amount to five pounds upon every one hundred pounds of the original cost of erecting and fitting up or of purchasing such chapel or building, to be secured upon lands or money in the funds as aforesaid, and also a further sum to be reserved annually out of the pew rents of the said church or chapel, at the rate of five pounds for every one hundred pounds of the sum to be provided as last aforesaid, and also if such person or persons shall further declare his, her, or their intention of setting apart or appropriating one third at least of the sittings in such church or chapel to be and continue for ever as free sittings, it shall be lawful for the bishop of the diocese in which such parish or extra-parochial place is locally situate, if he shall see fit, and he is hereby authorized, to declare by writing under his hand and seal that the right of nominating a minister to such church or chapel, when so built or purchased and endowed as aforesaid, and when the conditions herein-before mentioned shall have been performed, shall for ever thereafter be in the person or persons so building or purchasing and endowing the same, his, her, or their heirs and assigns, or in such trustee or trustees, being members of the united church of England and Ireland, as he, she, or they shall appoint, and in such future trustee or trustees, being members of the united church of England and Ireland, as shall from time to time be nominated by writing under the hand or hands of the trustees or trustee for the time being of the said church or chapel, or the major part of them, or chosen in such manner as may in the first instance be agreed upon by the persons building and endowing such church or chapel, or the major part of them, and the bishop of the diocese, in writing under their hands and seals, in the place and stead of any one or more who shall from time to time resign, or become incapable of acting, or in such ecclesiastical person or body corporate, and his or their successors, as the persons so applying shall at the time of application to the bishop nominate and appoint: Provided always, that if it should happen that all the trustees of the said church or chapel for the time being should die without having appointed any other trustee or trustees as their successors, then and in such case it shall be lawful for the incumbent for the time being of the said church or chapel, with consent of the bishop of the diocese, to appoint a requisite number of trustees to supply the vacancies; and provided also, that the patronage of any such church or chapel shall not at any time be vested in or held in trust by more than five persons, except in cases where such patronage shall pass by descent to coparceners, or by the custom of gavelkind to more than five, or shall be conveyed by will or deed to more than five children, grandchildren, nephews, or executors of the grantor or deviser: Provided also, that no church or chapel built for the accommodation of three hundred persons resident upwards of two miles from the existing parochial church or chapel shall be placed nearer than two miles from such existing church or chapel.

(III.) Provided also, and be it further enacted, that previous to any bishop making such declaration of the right of nomination as aforesaid there shall be produced to him a certificate, signed by an architect or surveyor, and attested by two or more respectable householders in the parish, to the effect that the existing churches or chapels do not afford a actual admeasurement, accommodation for more than one third of the inhabitants; or a certificate, signed by three or more respectable householders in the parish, that there are in such parish or extra-parochial place three hundred persons resident upwards of two miles from any existing church or chapel and within one mile of the site upon

No. I.
1 & 2 W. 4,
c. 38.

In case of failure of appointment of trustees.

Limiting the patronage in trust.

New church not to be within two miles of existing church.

Previous to nomination, a certificate of the facts to be produced to the bishop.

No. I.
1 & 2 W. 4,
c. 38:

Pews may be
let.

In all other
cases where a
church or
chapel has
been built and
endowed to the
satisfaction of
the commis-
sioners, they
may, with the
consent of the
bishop, declare
the right of
nominating to
be in the person
so building and
endowing.

Limitation as
to the number
of persons in
whom the
patronage shall
vest.

Application
required to be
made to com-
missioners pre-
vious to their
declaring the
right of
nomination.

which a new church or chapel is intended to be built under the provisions of this act.

IV. That the pews or sittings in such church or chapel shall be let by the churchwardens or chapelwardens, or by some person appointed by the trustees, or person or persons building and endowing the same to act in that behalf, according to a scale of pew rents fixed by the trustees or such person or persons as aforesaid, and approved of by the bishop, which scale it shall be lawful for the trustees or such person or persons as aforesaid, with consent of the bishop, to alter from time to time as occasion may require: Provided always, that all such pews shall not be taken at the rent respectively fixed thereon, within fourteen days after the commencement of the ensuing year, shall in every such case be let to any inhabitant of any adjoining parishes or places in which there shall not be sufficient accommodation in the churches and chapels of the parish or place for the inhabitants thereof, at the rent respectively so affixed upon such pews, for any term not exceeding the end of the year, and at the expiration of the year, and also of every succeeding year in which any such pews shall be rented by inhabitants of any adjoining parishes, such pews shall be inserted in the list of vacant pews, to be taken in preference by the inhabitants of the parish or place to which the church or chapel shall belong; and all such pews as may not be so taken by any inhabitants of the parish or place may again be let, and so on from year to year, to any inhabitants of any adjoining parish or place.

V. That in all other cases not herein-before provided for, in which any person or persons shall have already endowed, with the sanction of the said commissioners, or shall endow or declare their intention of endowing, to the satisfaction of the said commissioners, any church or chapel built or intended to be built by such person or persons, with some permanent provision in land, or in money charged upon land, or money in the funds, exclusively of and in addition to the pew rents and profits arising from the said church or chapel, in case any such rent should be taken, and also of providing a sufficient fund for the repairs of the said church or chapel, it shall be lawful for the said commissioners, with the consent of the bishop of the diocese, if under all the circumstances it shall appear to them fit and proper so to do, to declare that after certain conditions herein-after mentioned are performed, the right of nominating shall have been already satisfied, the right of nominating a minister of such church or chapel shall for ever thereafter be in the person or persons building and endowing or having built and endowed the same, his, her, or their heirs and assigns, or in such person or persons, ecclesiastical person or body corporate, and his or their successors, as he, she, or they shall appoint; and in case such church or chapel shall have been or shall be built by subscription, then in such person or persons, their heirs or assigns, or in such ecclesiastical person or body corporate, and his and their successors, as the major part in value of the subscribers shall, at the time of the application to the commissioners nominate or appoint: Provided always, that the patronage of any such church or chapel shall at no time be vested in or held in trust for more than five persons, except in cases where the said commissioners shall have already sanctioned a larger number of trustees, or such patronage shall pass by descent to coparceners, or by the custom of gavelkind to more than five, or shall be conveyed by will or deed to more than five children, grandchildren, nephews, or nieces of the grantor or deviser.

VI. Provided always, that previous to such declaration of the right of nomination as aforesaid being made by the said commissioners, application in writing shall be made to the said commissioners, setting forth the population of the parish in which such church or chapel is built or proposed to be built, together with the accommodation provided in the several churches or chapels built or building or intended to be built within such parish, together with the population of the district in which such church or chapel is intended to provide, and the accom-

dation proposed to be provided in such church or chapel, and its distance from the existing churches or chapels in the parish; and that copies of such application shall, in every such case, be sent by the said commissioners to the patron and incumbent respectively of the parish, chapelry, township, or extra-parochial place in which such church or chapel is built or intended to be built, in order to afford such patron and incumbent the opportunity of laying before the said commissioners any statement relating thereto; and the said commissioners shall not declare, or signify their intention of declaring, such right of nomination as aforesaid, until after the expiration of three calendar months from the time when they shall have sent such copies to such patron and incumbent respectively, except in those cases where the said commissioners shall before the passing of this act have already expressed their satisfaction with the endowments proposed, and their willingness to accede to the conditions proposed, and such church or chapel shall have been built or be now building in pursuance thereof.

No. I.
1 & 2 W. 4,
c. 38.

Copies of such application to be sent to the patron and incumbent of the parish.

VII. That in all cases whatsoever under this act, any person or persons intending to build or purchase and endow any such church, chapel, or building as aforesaid, in any such parish as aforesaid, shall, in the first place, cause to be served upon the patron or patrons and incumbent of such parish a notice in writing of such intention, which notice shall specify the various particulars herein-before mentioned, and shall also state the number of persons intended to be accommodated in such church or chapel, and the amount of money intended to be laid out in the building or purchasing thereof; and in case such patron or patrons shall, within two calendar months after being served with such notice as aforesaid, bind him, her, or themselves, by bond or other sufficient security, to the said commissioners in such cases as shall come before them, and to the bishop of the diocese in all other cases, that he, she, or they shall within two years thereafter build or purchase, and completely finish and endow, an additional church or chapel in such parish, to the satisfaction of the bishop of the diocese, and that he, she, or they shall also comply with and perform all and singular the conditions herein-before mentioned, then and in such case such patron or patrons shall be preferred to any other person or persons so intending to build or purchase such additional church or chapel as aforesaid: Provided always, that no declaration of the right of nominating a minister to any church or chapel built and endowed under the provisions of this act shall in any case take effect until such church or chapel shall have been duly consecrated: Provided always, that in case any such church or chapel has been or shall hereafter be built or endowed by subscription, the application to the bishop or commissioners of the major part in value of the subscribers shall be deemed and taken to be the application of the party building or endowing the same: Provided always, that the churches or chapels already built and completed on the faith of the said recited act of the seventh and eighth years of the reign of King George the Fourth be excepted to the two months' notice, such notice having already been given to His Majesty's said board of commissioners and incumbents when such churches or chapels were built.

Persons intending to build and endow to give notice to the patron and incumbent, stating particulars.

If the patron within two months after such notice shall bind himself to build and endow to the satisfaction of the bishop of the diocese, he shall be preferred.

VIII. That where there is a population of not less than one thousand persons in any parish, district parish, district chapelry, or extra-parochial place within two miles from an existing church, if there be any person or persons who shall be desirous of enlarging the church accommodation therein, and who shall, with the consent of the select vestry or persons exercising the powers of vestry in such parish, signify such intention to the bishop of the diocese, or to the said commissioners, as the case may be, and shall also bind themselves in a bond or other sufficient security to the said bishop, or to the said commissioners, as the case may be, that they will within two years from the date of declaring such their intention as aforesaid enlarge the existing church so as to add one fourth to its then existing church accommodation, so that more than one third of the parishioners shall be accommo-

Preference to be given to enlargement of churches in certain cases.

No. I.
1 & 2 W. 4,
c. 38.

As soon as churches or chapels are finished and consecrated, the right of nomination to be vested in the persons building and endowing.

dated, then and in all such cases such persons, having complied with such conditions as aforesaid, shall be preferred to any person or persons proposing to build and endow any new chapel in such parish or extra-parochial place under the provisions of this act: Provided always, that plans for the enlargement of such existing church shall in all cases be prepared, and, before the commencement of such enlargement, shall be laid before the bishop of the diocese, or the said commissioners, as the case may be, for his or their approbation thereof; and that a certificate from an architect employed therein, as to the due execution of such plans, shall in every case be sent to the said bishop, or to the said commissioners, as the case may be, on the completion of the enlargement of such church.

IX. That as soon as conveniently may be after any such church or chapel as aforesaid shall have been so built or purchased and endowed as aforesaid, and completely furnished and fitted up for the performance of Divine Service, and the other conditions herein-before mentioned shall have been performed, and the said church or chapel shall have been consecrated, the right of nominating a minister to the same, and also the land, ground, and site whereon the same shall be built, with the cemetery thereto belonging, if any, which land, ground, and site shall be specified and described in the sentence of consecration of the church or chapel, shall be and are hereby declared to be for ever vested in the person or persons building or purchasing and endowing the said church or chapel, his, her, or their heirs and assigns, or in such trustee or trustees, or ecclesiastical person or body corporate, as are herein-before mentioned, by such name and style as shall be specified in the sentence of consecration of the church or chapel; and such right of nomination shall and may be exercised without requiring the consent of the patron or incumbent of the parish or district in which such chapel shall be built, and notwithstanding no compensation shall have been made to them or either of them, without prejudice however to the fees herein-after mentioned; and such right of nomination, when vested in more than two persons, shall in all cases be exercised by the majority; and the person or persons in whom the said right of nomination, and the said land, ground, and site, shall be so vested, shall in every such case have perpetual succession in the name and style specified in the sentence of consecration, and shall hold the said right of nomination, and also the said lands, grounds, and sites so vested in them, as bodies corporate, by such name and style, without incurring or being subjected to any of the penalties or forfeitures of the statute of mortmain, or of any other law or statute whatsoever, to the use, intent, and purpose that every such church or chapel, with the cemetery to the same, if any, shall, when consecrated, be for ever thereafter set apart and dedicated to the service of Almighty God, as a place of divine worship according to the liturgy and usages of the united church of England and Ireland as by law established.

Commissioners or bishop may assign a district to every church, and determine the offices to be performed therein.

X. That the said commissioners, with the consent of the bishop of the diocese, in all such cases as shall come before them, and the bishop of the diocese alone in all such other cases as are herein-before mentioned, and also with the consent of the patron and incumbent in all other cases in which additional churches or chapels shall have been already built and endowed, shall, with all convenient speed, proceed to assign a particular district to every such church or chapel, except where from special circumstances they shall deem it not advisable to assign a district, and such district shall be under the immediate care of the minister who shall have been duly licensed to serve such church or chapel, so far only as regards the visitation of the sick and other pastoral duties, and shall not be deemed a district for any other purpose whatsoever: Provided always, that it shall be lawful for the said commissioners, with the consent of the bishop of the diocese, in all such cases as shall come before the said commissioners, and for the said bishop alone in all other cases, to determine whether baptisms, churchings, or

burials shall be solemnized or performed in any such church or chapel, or not; And the said commissioners or bishop respectively, as the case may be, shall cause a description of the boundaries of the district assigned by them to such church or chapel to be registered in the registry of the bishop of the diocese, and shall also cause their order and direction in writing, as to all offices to be performed in any such church or chapel, to be registered in the registry of the diocese.

No. I.
1 & 2 W. 4,
c. 38.

Boundaries of the district to be registered.

XI. Provided always, That in cases where the district to be provided for any church or chapel erected or to be erected shall extend into more parishes than one, all the conditions hereby directed to be complied with shall be observed with respect to the patrons and incumbents of each parish any part of which shall be comprised in such district, and the patron or patrons, incumbent or incumbents, of each such parish, shall be entitled to such and the same notices, and such and the same rights and privileges, as if such district were solely situate in one only of such parishes.

Provision in cases where districts extend beyond one parish.

XII. That every such church or chapel to which such particular district has been assigned as aforesaid shall be deemed a perpetual curacy, and shall be assigned in law as a benefice presentative, so far only as that the licence thereto shall operate in the same manner as institution to any such benefice, and shall render voidable other livings in like manner as institution to any such benefice; and the spiritual person serving the same shall be deemed the incumbent thereof; and such incumbents shall have perpetual succession, and shall be and are hereby declared to be bodies politic and corporate, and may receive and take such endowments in lands or tithes, or both, or any such augmentation, as shall be granted to them or their successors; and all such incumbents, and all persons presenting or appointing any such incumbents, shall respectively be subject to all jurisdictions and laws, ecclesiastical or common, and to all provisions, regulations, penalties, and forfeitures contained in any acts of parliament in force relating thereto respectively; and in case of any failure or neglect in not presenting or nominating any such incumbent for the space of six months, such presentation or appointment shall thereupon lapse, as in cases of actual benefices; and all churches or chapels built or appropriated under the provisions of this act shall be subject to the jurisdiction of the bishop of the diocese and the archdeacon of the archdeaconry within which the same shall be locally situated.

Churches or chapels to be perpetual curacies.

Powers and duties of persons serving the same.

Jurisdiction.

XIII. That no such church or chapel to which a particular district has been assigned as aforesaid shall be tenable or holden with the original church of the parish, chapelry, or place in which such church or chapel has been built, or with any other benefice having cure of souls: Provided always, that no person holding any benefice shall be exempt from residence upon such benefice in respect of any duty which he may perform in any such church or chapel to which no district shall have been assigned as aforesaid.

District churches not to be held with the original.

XIV. That where the said commissioners or bishop of the diocese respectively, as the case may be, shall have determined that baptisms, churchings, or burials shall be solemnized or performed in any such churches or chapels, all acts of parliament, laws, and customs relating to the performance of such offices of the church shall apply to such churches or chapels as to the performance of such offices respectively: Provided always, that all fees, dues, offerings, and other emoluments, which of right or custom belong to the incumbent or clerk of any parish, chapelry, or place in which such church or chapel shall have been or shall be erected, shall be received by or for and on account of such incumbent and clerk respectively, and be paid over to them, any thing in the said recited acts contained to the contrary notwithstanding, except such portion of the said fees, dues, offerings, or other emoluments as the said commissioners, with the consents of the bishop of the diocese, the patron, and the said incumbent respectively, in those cases which shall come before the said commissioners, by order under their

The laws relating to baptisms, burials, &c. to apply to the churches hereby authorized to perform them.

Fees.

No. I.
1 & 2 W. 4,
c. 38.

To whom
copies of
applications
shall be sent,
in case the
patronage of
any place
shall be in
the crown.

Churchwar-
dens to be
appointed.

common seal, or the bishop of the diocese alone, with the consent of the patron and incumbent, in all such other cases as herein-before mentioned, by order under his hand and seal, shall assign to the minister of such church or chapel; and every such instrument of assignment shall be registered in the registry of the bishop of the diocese within which such church or chapel shall be locally situated.

XV. Provided always, That where the patronage of any living or benefice of any parish, chapelry, or place as aforesaid shall be in the crown, and such living or benefice shall be above the yearly value of twenty pounds in the king's books, a copy of the application made to the said commissioners as aforesaid shall in every such case be sent to the lord high treasurer or first lord commissioner of the treasury for the time being, instead of being sent to the patron of such living or benefice, as herein-before directed; and that if such living or benefice shall not exceed the value of twenty pounds yearly in the king's books, a copy of the application as aforesaid shall in every such case be sent to the lord high chancellor, lord keeper or commissioners of the great seal, for the time being; and that if such living or benefice shall be within the patronage of the crown in right of the duchy of Lancaster, then in every such case a copy of the application as aforesaid shall be sent to the chancellor of the duchy for the time being, instead of being sent to the patron of such living or benefice, as herein-before directed; and the sending a copy of such application to the said party or parties, as the circumstances may be, shall be as effectual for the purposes of this act, in all such cases, as if the same had been sent to the patron of such living or benefice: Provided also, that in all cases respecting the building, endowment, or disposition of the patronage of any church or chapel heretofore built or hereafter to be built, where the patronage of the living or benefice in which such church or chapel is or shall be situate is in the crown, it shall and may be lawful for the lord high treasurer or first lord commissioner of the treasury for the time being (if such living or benefice shall exceed the value of twenty pounds yearly in the king's books), and for the lord high chancellor, lord keeper or commissioner of the great seal for the time being (if such living or benefice shall not exceed the value of twenty pounds yearly in the king's books), to give such consent by any instrument under his or their hand and seal or hands and seals, on behalf of the crown, and such consent shall be as binding and effectual to all intents and purposes as if given by the crown itself.

XVI. That two fit and proper persons shall be appointed to act as churchwardens for every church or chapel built or appropriated under the provisions of this act, at the usual period of appointing parish officers in every year, and shall be chosen, one by the incumbent of the church or chapel for the time being, and the other by the renters of pews in such church or chapel; and the two persons, when so elected churchwardens, shall appear, and be admitted and sworn according to law, and shall collect and receive the rents of the seats and pews, and pay over the residue thereof which shall remain after the annual reservation aforesaid for repairs, and after paying the salary of the clerk, beadles, pew-openers, and other expences incident to the performance of Divine Service, to the minister of the said church or chapel, to be taken by the said minister to and for his own use by way of stipend, in addition to the yearly interest or dividends which shall arise from the landed or funded endowment herein-before mentioned; and the said churchwardens shall also do, perform, and execute all lawful acts, matters, and things necessary and requisite for and concerning the repairs, management, good order, and decency of behaviour to be kept and observed in the church or chapel by the congregation thereof; and the persons so to be appointed or chosen churchwardens shall continue in their said office until others shall be chosen in like manner in their stead; and all the persons so chosen churchwardens are hereby authorized and empowered, in case of nonpayment of the rents of the seats

and pews of the church or chapel for which they shall be appointed, to enter upon and sell the same, or else to sue for and recover the same by action or actions for such rents, in the names of "The churchwardens of the church or chapel of" (describing the same), as the case shall or may require, without specifying the christian or surname of such churchwardens; and no such action shall abate by reason of the death or removal or going out of office of any such churchwarden.

No. I.
1 & 2 W. 4,
c. 38.

XVII. That from and after the expiration of five years after the transfer or conveyance of any messuages, lands, grounds, tenements, or hereditaments to any person or persons, as a site for any church or chapel, or any church or chapel yard or cemetery, under the provisions of this act, the said messuages, lands, grounds, tenements, or hereditaments shall become and be and remain absolutely vested in the person or persons to whom the same are conveyed, his, her, or their heirs and assigns: Provided that any person to whom any messuages, lands, grounds, tenements, or hereditaments shall have been conveyed for the purposes of this act shall, within two months after any judgment in ejectment shall have been obtained against him for such messuages, lands, grounds, tenements, or hereditaments, tender or pay to the lessor of the plaintiff in such ejectment his costs on such ejectment, and such sum of money as a jury shall in the manner herein-after mentioned find to have been the value of the said messuages, lands, grounds, tenements, or hereditaments, at the time when such messuages, lands, grounds, tenements, or hereditaments were conveyed for the purposes of this act.

Property conveyed for the site of any church under this act not to be subject to question after five years.

XVIII. That the jury who shall try any ejectment brought for the recovery of any messuages, lands, grounds, tenements, or hereditaments which have been conveyed for the purposes of this act, or if judgment on ejectment shall have been obtained by default, or for non-conveying lease, entry, and ouster, a jury under a writ of enquiry (which writ of enquiry the court in which such action shall be brought is hereby empowered to issue) shall ascertain the value of such messuages, lands, grounds, tenements, or hereditaments at the time when they were conveyed for the purposes of this act; and the value so found shall be indorsed by the judge who tried the ejectment on the postea, or shall be returned to the court by the sheriff or under sheriff or other person before whom any writ of enquiry shall be executed under this act, in the same manner as other inquests are returned on writs of enquiry.

The jury who shall try any ejectment, or a jury under a writ of enquiry, shall ascertain the value of the premises.

XIX. That the common seal of the said commissioners shall be affixed to every instrument declaring the right of nomination to such church or chapel, in all such cases as shall come before the said commissioners; and that every instrument shall be registered in the registry of the bishop of the diocese within which such church or chapel shall be locally situated.

Nominations to be sealed and registered.

XX. That where any deed or deeds shall have been sealed before the passing of this act with the seal of the said commissioners, for the purpose of declaring the right of nominating a minister to any chapel or chapels endowed to the satisfaction of the said commissioners, every such chapel shall be deemed to have been lawfully built, and every such deed shall be deemed and the same is hereby declared to be and to have been from the day of the date thereof valid for the purpose of declaring and vesting the right of nominating the minister to such chapel, and for effectuating the other objects of the said deed.

Declaring the validity of deeds sealed before the passing of this act.

XXI. And whereas the said commissioners acting under the powers of the said recited act of the fifty-ninth year of the reign of King George the Third have executed deeds or instruments for the purpose of discharging subscribers towards building churches or chapels, and also subscribers towards purchasing sites on which churches or chapels have been built, from the payment of pew rents in such churches or chapels: and whereas doubts have arisen whether the powers of the said act extend to cases of persons subscribing towards purchasing sites for churches or chapels; be it enacted, That it shall be lawful for the

Powers of act 59 G. 3. extended to discharging subscribers towards purchasing sites for churches or chapels.

No. 1.
1 & 2 W. 4,
c. 38.

said commissioners, in any case in which they shall deem it expedient, to make and execute any deed or instrument, or to confirm any deed or instrument already made by them, discharging any person or persons subscribing towards either of the purposes aforesaid, either wholly or in part from the payment of pew rents in the said church or chapel for the term or period and in the manner in the said act mentioned; and all such deeds or instruments, whether hereafter to be made or already made, and afterwards confirmed in pursuance of the power hereby given, shall, as from the date and execution of such deed or instrument, be good and valid to all intents and purposes whatsoever; any thing in the said recited acts or any of them to the contrary notwithstanding.

Churches may be subjected to provisions of recited acts as to pews.

If any person is willing to endow a chapel of ease, it may be separated from the parish church, and made a distinct parish.

As to the future right of nomination to such chapel.

Church-wardens to be chosen for such new parish.

Consent of patrons.

XXII. That it shall be lawful for the said commissioners, if they shall think fit, in all such cases as shall come before the said commissioners, to order and direct that such church or chapel shall be subject to all the provisions of the said recited acts or this act as to apportionment of accommodation in pews and free sittings, and as to pew rents.

XXIII. And whereas in certain parishes of large extent there exist chapels of ease at a considerable distance from the parish church, having chapeltries, townships, or districts belonging or supposed to belong thereto; be it therefore enacted, that when any person or persons shall be willing to endow any such chapel with such a provision, secured upon land, money in the funds, tithes, or other hereditaments, as shall in the opinion of the bishop of the diocese be sufficient to ensure a competent stipend to the minister of such chapel, it shall be lawful for the bishop, with the consent of the patron and incumbent of the parish, by writing under his hand and seal, to declare that such chapel, when so endowed, shall thenceforth be separate from and independent of the parish church, and that the chapelry, township, or district belonging or supposed to belong thereto shall be thenceforth a separate and distinct parish for all spiritual purposes.

XXIV. That it shall be lawful for the patron, with consent of the incumbent, to make any agreement with the bishop of the diocese touching the future right of nominating a minister to such chapel, such agreement in writing to be signed and sealed by the bishop, patron, and incumbent; and that the right of nominating a minister to such chapel shall for ever thereafter be exercised according to the terms of such agreement: Provided always, that if the incumbent of any parish wherein such chapel of ease is situate shall refuse his consent to such separation or agreement, then the declaration of separation, and the deed of agreement touching the right of nominating a minister to such chapel, when signed and sealed by the bishop and patron, shall be good and valid in law, and shall take effect immediately after the next avoidance of the parish church, and not before; and every declaration of separation, and every deed of agreement, made under the provisions of this act, shall be registered in the registry of the diocese.

XXV. That two fit and proper persons shall be chosen yearly at the usual time of choosing parish officers, out of the inhabitants of such new parish so constituted, being members of the established church, to act as churchwardens of the said parish, one to be chosen by the minister, and one by the persons exercising the powers of vestry in the said new parish; and the persons so chosen shall be duly admitted and sworn, and shall do all things pertaining to the office of churchwardens, as to ecclesiastical matters, in the said new parish, in like manner as though the same had been of old time a separate and distinct parish.

XXVI. That in all cases wherein the consent of the patron is required, under the provisions of this act or of any of the acts herein-before recited, the consent of bishops, deans, and chapters, or other ecclesiastical corporations or colleges, acting as patrons of benefices in right of their bishoprics, dignities, or corporate capacities, shall be as good and valid, for all the purposes of the said acts, as though such consent had been given by a patron in fee simple.

XXVII. That nothing in this act contained shall extend or be construed to extend to repeal, alter, vary, or affect any powers, authorities, clauses, or provisions contained in any act or acts passed relating to any particular parish or place, so far as relates to any church or chapel already built, unless with the consent of the patron and incumbent and of the select vestry or persons exercising the powers of vestry in such parish or place, or contained in any deed or deeds of trust executed under the sanction of the bishop of any diocese, for the regulation of any church or chapel already built.

No. I.
1 & 2 W. 4,
c. 38.

Act not to affect any local act with respect to churches already built, unless with the consent of the patron.

XXVIII. That all the provisions of this act shall extend and be construed to extend to the Isle of Man, and to the islands of Guernsey, Jersey, Alderney, and Sark.

Act to extend to the Isle of Man, &c.

[No. II.] 2 & 3 W. IV, c. 61.—An Act to render more effectual an Act passed in the Fifty-ninth Year of His late Majesty King George the Third, intituled *An Act to amend and render more effectual an Act passed in the last Session of Parliament, for building and promoting the building of additional Churches in populous Parishes.*

[11th July 1832.]

WHEREAS an act was passed in the fifty-ninth year of the reign of his late Majesty King George the third, intituled *An Act to amend and render more effectual an Act passed in the last Session of Parliament, for building and promoting the building of additional Churches in populous parishes*, whereby it is (amongst other things) enacted, that it should be lawful for the commissioners appointed for the execution of the therein-recited act, with certain consents in the now-reciting act mentioned or referred to, to unite and consolidate contiguous parts of parishes and extra-parochial places into a separate and distinct district for all ecclesiastical purposes, and to make grants or loans towards the building of any chapel or chapels in any such district, and to constitute any such district a consolidated chapelry; and that all such chapelries should be deemed to be benefices, and be subject to the jurisdiction of the bishop and archdeacon within whose diocese and archdeaconry the altar of such chapel should be locally situate: and whereas doubts have arisen touching such jurisdiction in the case of chapels or districts situated wholly or in part within exempt or peculiar jurisdictions; be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, that every such chapel and district, whether situated wholly or in part within any exempt or peculiar jurisdiction, shall be subject to the jurisdiction of the bishop and archdeacon within the limits of whose diocese and archdeaconry the altar of any such chapel shall be locally situate, in as full and ample a manner as it would be if no part of such chapelry were within some exempt or peculiar jurisdiction; and in every such case all other ecclesiastical jurisdiction over the said chapel and chapelry shall wholly cease, and no other such jurisdiction shall be exercised in the said chapelry, save and except the jurisdiction of the bishop and archdeacon as aforesaid; any law, usage, or custom to the contrary notwithstanding.

59 G. 3, c. 134.

Chapels within exempt or peculiar jurisdictions to be subject to the jurisdiction of the bishop within whose diocese the altar is locally situate.

As to marriages solemnized in churches built under 59 Geo. 3, c. 134.
[See 11 G. 4, c. 18, s. 3, post CLASS III.]

No. III.
3 & 4 W. 4,
c. 30.

[No. III.] 3 & 4 W. 4, c. 30.—An Act to exempt from Poor and Church Rates all Churches, Chapels, and other Places of Religious Worship. [24th July 1833.]

No persons liable to be rated for places exclusively appropriated to public religious worship.

Proviso respecting places not so exclusively appropriated.

Persons not liable to rates because part of premises may be used for schools.

WHEREAS it is expedient that churches, chapels, and other places exclusively appropriated to public religious worship should be exempt from the payment of poor and church rates: Be it therefore enacted &c., That from after the first day of October one thousand eight hundred and thirty-three no person or persons shall be rated or shall be liable to be rated, or to pay to any church or poor rates or cesses, for or in respect of any churches, district churches, chapels, meeting houses, or premises, or such part thereof as shall be exclusively appropriated to public religious worship, and which (other than churches, district churches, and episcopal chapels of the established church) shall be duly certified for the performance of such religious worship according to the provision of any act or acts now in force: Provided always, that no person or persons shall be hereby exempted from any such rates or cesses for or in respect of any parts of such churches, district churches, chapels, meeting houses, or other premises which are not so exclusively appropriated, and from which parts not so exclusively appropriated such person or persons shall receive any rent or rents, or shall derive profit or advantage.

II. Provided always, and be it enacted, That no person or persons shall be liable to any such rates or cesses because the said churches, district churches, chapels, meeting houses, or other premises, or any vestry rooms belonging thereto, or any part thereof, may be used for Sunday or infant schools, or for the charitable education of the poor.

[No. IV.] 5 & 6 W. 4, c. 30.—An Act for protecting the Revenues of vacant Ecclesiastical Dignities, Prebends, Canonries, and Benefices without Cure of Souls, and for preventing the Lapse thereof, during the pending Inquiries respecting the State of the Established Church in England and Wales. [21st August 1835.]

WHEREAS his Majesty was pleased, on the fourth day of February last, to issue a commission to certain persons therein named for considering the state of the established church in England and Wales with reference to ecclesiastical duties and revenues, which commission has since been renewed, and such renewed commission is now in force, and the inquiries thereby directed are now in progress, and some time must elapse before the same can be brought to a termination: And whereas his Majesty has been graciously pleased to signify, that, in order to promote the important objects of the said commission, it is his Majesty's intention to defer any nomination to any vacant dignity, prebend, canonry, or benefice without cure of souls which may be in the patronage of the crown until the circumstances connected therewith shall have undergone the consideration of the said commissioners; and the two archbishops, and divers of the bishops of England and Wales, have declared their intention of pursuing the same course with regard to similar preferments in their respective patronage (excepting only the dignity of archdeacon), and a similar declaration has been made by certain other patrons: And whereas several dignities, prebends, canonries, and benefices without cure of souls have become vacant since the said fourth day of February last, and others may become vacant pending the said inquiries now in progress; and it is expedient that the same should remain vacant until it shall be decided in what mode they can be disposed of so as to be made most conducive to the efficiency of the established church; and with that view it is necessary to provide that due care be taken of the revenues of such dignities, prebends, canonries,

and benefices, and that the right of presentation or collation thereto shall not lapse by reason of delay in such presentation or collation: Be it therefore enacted, &c., That where any dignity, prebend, canonry, or benefice without cure of souls, being in the patronage of his Majesty, or of any archbishop, bishop, or other patron in England or Wales, has become vacant since the said fourth day of February last, or shall become vacant during the existence of the said commission now in force, or of any renewal thereof, all profits and emoluments which have arisen or accrued, and which shall arise and accrue, from every such vacant dignity, prebend, canonry, or benefice, until a successor shall have been appointed thereto, whether from houses, lands, tithes, or hereditaments to the same belonging, or from rents, fines, compositions, dividends, or other emoluments belonging to any chapter or other aggregate body of which the dignitary, prebendary, canon, or incumbent last in possession was a member, shall be paid to the treasurer for the time being of the governors of the bounty of Queen Anne, in as full and ample manner as such dignitary, prebendary, canon, or incumbent, if he had remained in possession, or his successor, if duly appointed, inducted, or installed, would be entitled to receive the same; and such treasurer shall, for the purpose of enforcing payment of all such profits and emoluments, have and enjoy all legal rights, powers, and remedies, whether by action, suit, or distress, as the case may be, which would belong to such successor: Provided always, that such treasurer shall not have the power of granting any lease, or of presenting to any benefice with cure of souls: Provided also, that such treasurer shall not be answerable or accountable for any monies payable by virtue of this act which shall not have been actually received by him.

No. IV.
5 & 6 W. 4,
c. 30.

Profits of dignities or benefices without cure of souls becoming vacant during the existence of the ecclesiastical commission to be paid to the treasurer of Queen Anne's Bounty.

II. That such treasurer shall keep an account of all sums received by him under this act separate from all other funds in his hands, and distinguishing each dignity or benefice in respect whereof the same shall be received, and shall allow all costs, expences, and outgoings which would have fallen on the deceased incumbent, or may be reasonably incurred in the receipt of or enforcing the payment of the sums received, the amount thereof being allowed by the governors of the said bounty for the time being, and shall retain the balance in his hands until he shall be otherwise ordered by competent authority.

Treasurer to keep an account of the receipts, and allow expences.

III. Provided always, That nothing in this act contained shall apply to or affect any profits or emoluments of any dignity, prebend, canonry, or benefice now vacant, which shall have been already divided or carried to any particular account, according to the statutes, customs, or usages of the cathedral or collegiate church in which such dignity may be founded.

Excepting such profits of dignities now vacant as are already appropriated.

IV. Provided also, That nothing in this act contained shall prevent his Majesty, or any archbishop, bishop, or other patron of any dignity, prebend, canonry, or benefice without cure of souls, which may have or hereafter shall become vacant, from appointing a successor thereto in case he shall think proper to do so.

Not to prevent patrons from appointing, if they think proper to do so.

V. That where any benefice with cure of souls, being in the patronage of the holder or incumbent of any such dignity, prebend, canonry, or benefice as aforesaid without cure of souls, shall have become, or shall become vacant during the vacancy of such last-mentioned dignity, prebend, canonry, or benefice, the patron of such last-mentioned dignity, prebend, canonry, or benefice shall be entitled to present to such benefice with cure of souls.

Providing for the presentation to benefices in the patronage of such vacant dignity, &c.

VI. That the right of presentation or collation to any dignity, prebend, canonry, or benefice without cure of souls so become or becoming vacant as aforesaid shall not, by reason of any delay in presenting or collating thereto, lapse to any bishop or archbishop, or to the king's Majesty; any law or custom to the contrary notwithstanding: Provided always, that the patron of such vacant dignity, prebend, canonry, or benefice shall within six months after the vacancy give notice thereof in writing to the commissioners herein-before mentioned, who shall transmit a

Right of presentation to vacant dignity or benefice not to lapse.

Treasurer of Queen Anne's Bounty to collect the profits of the vacant benefice, &c

No IV.
5 & 6 W. 4,
c. 30.

copy of such notice to the said treasurer; and the said treasurer shall, upon receipt thereof, forthwith proceed to demand, collect, and receive, and shall, during the time that such dignity or benefice shall remain liable to the provisions of this act, continue from time to time to demand, collect, and receive the profits and emoluments as they shall respectively become due and payable, and shall diligently use and exercise all the powers and authorities hereby to him given for duly and regularly enforcing the payment thereof.

[For the 2 and 3 W. 4, c. 80, authorizing the identifying of lands and other possessions belonging to certain ecclesiastical and collegiate corporations. See *post*, Class V. CORPORATIONS.

Under the provisions of the 2 & 3 W. 4, c. 71, prescriptive rights may now be established against ecclesiastical persons upon an enjoyment for a much shorter period than formerly, and Spiritual Corporations sole are within the recent statute of Limitations, 3 & 4 W. 4, c. 27. See *post*, Part 4, Class VIII. LIMITATIONS.

Also by the 2 & 3 W. 4, c. 100, claims to tithes by ecclesiastical persons are considerably limited. See *post*, Part 2, Class II. TITHES.

PART I.

CLASS III.

MARRIAGE.

[No. I.] 11 Geo. IV, c. 18.—An act to render valid Marriages solemnized in certain Churches and Chapels.

[29th May 1830.]

WHEREAS, by an act passed in the fourth year of the reign of his present Majesty, intituled *An act for amending the Laws respecting the Solemnization of Marriages in England*, it is provided, that if the church of any parish, or chapel of any chapelry, wherein marriages have been usually solemnized, be demolished in order to be rebuilt, or be under repair, and on such account be disused for public service, it shall be lawful for the banns to be proclaimed in a church or chapel of any adjoining parish or chapelry in which banns are usually proclaimed, or in any place within the limits of the parish or chapelry which shall be licensed by the bishop of the diocese for the performance of Divine Service during the repair or rebuilding of the church as aforesaid: And whereas by an act passed in the fifth year of the reign of his present Majesty, intituled *An Act to amend an Act passed in the last Session of Parliament, intituled An Act for amending the Laws respecting the Solemnization of Marriages in England*, it was enacted, that all marriages which had been theretofore solemnized, or which should be thereafter solemnized, in any place within the limits of such parish or chapelry so licensed as aforesaid for the performance of Divine Service during the repair or rebuilding of the church of any parish, or chapel of any chapelry, wherein marriages had been usually solemnized, or if no such place should be so licensed, then in a church or chapel of any adjoining parish or chapelry in which banns were usually proclaimed, whether by banns lawfully published in such church or chapel, or by license lawfully granted, should not have their validity questioned on account of their having been so solemnized, nor should the ministers who had so solemnized the same be liable to any ecclesiastical censure or to any other proceeding whatsoever: And whereas the ministers of certain parish churches and chapels of chapelries have, during the repair or re-building of such churches or chapels, published the banns of marriages in some places within the limits of their parishes or chapelries respectively wherein Divine Service has been usually performed during the time of such repair or re-building, but have solemnized the marriages themselves in the churches or chapels of the same or of some adjoining parishes or chapelries: And whereas other clergymen, during the time of such repair or re-building, have published banns of marriage and solemnized marriages in places duly licensed for the performance of Divine Worship, according to the forms of the united church of England and Ireland, within their respective parishes or chapelries, but not licensed specially for such performance during such time as aforesaid: And whereas it is expedient that the marriages so solemnized should not on that account have their validity questioned; be it therefore enacted by the king's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, That all marriages, the banns whereof have been published in any place used for the performance of Divine Service within the limits of any parish or chapelry during the repairs or rebuilding of the church or chapel thereof, which marriages have been solemnized either in the said place so used or in the church or chapel of the same or of some adjoining parish or chapelry during

4 G. 4, c. 76.

5 G. 4, c. 32.

The validity of marriages solemnized under the circumstances herein mentioned, not to be questioned.

No. I.
11 G. 4, c. 18.

During the time that any church, &c. is under repair the bishop may direct banns to be published in any consecrated chapel of the parish.

For removing doubts as to marriages solemnized in churches made and constituted under Acts 58 G. 3, c. 45, and 59 G. 3, c. 134.

26 G. 2, c. 33.

The validity of marriages solemnized in certain chapels not to be questioned;

nor marriages solemnized in chapels, the consecration of which may be doubted.

such repair or re-building, shall not have their validity questioned on account of having been so solemnized.

II. That in every case in which the church of any parish or place, in which banns of marriage may be published and marriages solemnized, shall be pulled down, or be rebuilding or under repair, it shall be lawful for the bishop of the diocese to order and direct that banns of marriage may be published and marriages solemnized in any consecrated chapel of such parish or place which he shall by order in writing direct, until the church shall again be opened for the performance of Divine Service; and during all such period the said consecrated chapel shall, for all purposes relating to the publication of banns of marriage and to the solemnization of marriages, be deemed and taken to be the church of the parish, any thing in any act or acts to the contrary notwithstanding; and the fees in respect thereof shall be applied, during such period, as the bishop of the diocese shall, with the consent of the incumbent, order and direct.

III. And whereas doubts have arisen touching the validity of marriages solemnized in churches which have been made and constituted the churches of distinct parishes, or district parishes, under the provisions of an act passed in the fifty-eighth year of his late Majesty, intituled *An Act for building and promoting the building of additional churches in populous parishes*; and also of an act passed in the fifty-ninth year of his late Majesty, intituled *An Act to amend and render more effectual an Act passed in the last Session of Parliament, for building and promoting the building of additional Churches in populous Parishes*: And whereas it is expedient that such doubts should be removed; therefore be it enacted, That all marriages which have already been solemnized, or may hereafter be solemnized, in any church which shall have been made and constituted the church of a distinct parish, or of a district parish, as aforesaid, after consecration thereof and assignment of a district thereto, shall be as good and valid in law as if such marriages had been solemnized in any parish church wherein banns had been usually published before or at the time of passing an act made in the twenty-sixth year of king George the second, intituled *An Act for the better prevention of clandestine Marriages*.

IV. And whereas, by error, banns have been published, and divers marriages have been solemnized, in chapels duly consecrated, but in which chapels banns cannot be legally published, nor marriages by law be solemnized; and it is expedient to remove all doubts arising from the circumstances aforesaid touching the due publication of such banns and the validity of such marriages; therefore be it enacted, That all banns already published, and all marriages already solemnized, in such chapels as aforesaid, shall not hereafter be questioned on account of the said banns having been published, or the said marriages solemnized, in a chapel not legally authorized for the publication of banns and the solemnization of marriages: Provided always, that nothing herein contained shall extend or to be construed to extend to authorize the publication of banns or the solemnization of marriages in such chapels hereafter.

V. And whereas divers marriages have taken place in chapels supposed to be consecrated, the consecration of which chapels, however, cannot be proved, and may be doubted: And whereas it is expedient that all apprehensions touching the validity of such marriages, on this account, should entirely be removed; be it therefore enacted, That the validity of such marriages shall not hereafter be questioned on account of the uncertainty respecting the consecration of such chapels.

[No. II.] 3 & 4 W. IV. c. 45.—An Act to declare valid Marriages solemnized at Hamburgh since the abolition of the British Factory there. [14th August 1833.]

No. II.
3 & 4 W. 4,
c. 45.

WHEREAS the British factory at Hamburgh was dissolved, and the privileges thereof abolished, in the year one thousand eight hundred and eight: and whereas divers marriages of subjects of this realm resident in Hamburgh have since the abolition of the said factory and privileges been solemnized there by the chaplain appointed by the Lord Bishop of London, or some minister of the church of England officiating instead of such chaplain, in the British episcopal chapel, and in private houses in that city, before witnesses, according to the rites of the church of England: and whereas it is expedient that no doubts should hereafter arise as to the validity of such marriages: may it therefore be declared and enacted; and be it declared and enacted, &c. That all marriages of parties subjects, or parties one of them being a subject of this realm, which have been solemnized at Hamburgh since the abolition of the British factory there, by the chaplain appointed by the Lord Bishop of London, or by any ministers of the church of England officiating instead of such chaplain, in the episcopal chapel of the said city, or in any other place, before witnesses, according to the rites of the church of England, shall be good and valid in law to all intents and purposes as if the same had been solemnized in the British factory at Hamburgh before the abolition thereof.

Marriages legally solemnized at Hamburgh since the abolition of the Factory there declared valid.

[No. III.] 4 & 5 W. IV. c. 28.—An Act to amend the Laws relative to Marriages celebrated by Roman Catholic Priests and Ministers not of the Established Church in Scotland.

[25th July 1834.]

WHEREAS an act was passed in the parliament of Scotland in the 4 & 5 W. 4, first session of the first parliament of King Charles the Second, intitled *Act against clandestine and unlawful Marriages*; and another act was passed in the seventh session of the said first parliament of King William, intitled *Act against clandestine and irregular Marriages*: and whereas by the said recited acts, or one or other of them, Roman Catholic priests, and other ministers not of the established church of Scotland, celebrating marriages, and persons married by such clergymen in Scotland, are rendered liable to certain punishments, pains, and penalties: and whereas it is expedient that the said acts should be altered and amended: be it therefore enacted, &c. That from and after the passing of this act, so much of the said recited acts as prohibits the celebration of marriages in Scotland by Roman Catholic priests or other ministers not belonging to the established church of Scotland, or imposes any fine, pain, or penalty on persons so married, or on the priests or ministers celebrating such marriages or marrying such persons, shall be and it is hereby repealed.

II. That it shall be lawful to all persons in Scotland, after due proclamation of banns there, to be married by priests or ministers not of the established church, and also for such priests or ministers to celebrate marriages without being subject to any punishment, pains, or penalty whatever; any thing in the said recited acts, or in any other act or acts of parliament, to the contrary notwithstanding.

III. That the said recited acts shall, excepting in so far as the same have already been or are hereby repealed or altered, remain in full force, authority, and effect.

So much of recited acts as prohibits marriages by Roman Catholic priests in Scotland repealed.

Persons in Scotland may be married by priests not of established church.

Recited acts to remain in force.

No. IV.
3 & 4 W. 4,
c. 102.

[No. IV.] 3 & 4 W. IV. c. 102.—An Act to repeal certain penal Enactments made in the Parliament of Ireland against Roman Catholic Clergymen for celebrating Marriages contrary to the Provisions of certain Acts made in the Parliament of Ireland.
[29th August 1833.]

WHEREAS Roman Catholic clergymen were by certain acts of the parliament of Ireland rendered liable to punishment, pains, and penalties for celebrating marriages contrary to the provisions thereof, to which punishment, pains, and penalties no other clergymen or ministers are liable: and whereas it is expedient to amend the law in this respect: be it therefore enacted, &c. That so much of the following acts made in the parliament of Ireland, (that is to say,) of an act passed in the sixth year of the reign of Queen Anne, intituled *An Act for the more effectual preventing the taking away and marrying Children against the will of their Parents or Guardians*; also of an act passed in the twelfth year of the reign of King George the First, intituled *An Act to prevent Marriages by degraded Clergymen and Popish Priests*; and for preventing Marriages consummated from being avoided by Pre-contracts, and for the more effectual preventing of Bigamy; also of an act passed in the twenty-third year of the reign of King George the Second, intituled *An Act for explaining and making more effectual an Act, intituled 'An Act for the more effectual preventing of clandestine Marriages*;' and another act passed in the twelfth year of his late Majesty's reign, intituled *An Act for preventing Marriages by degraded Clergymen and Popish Priests, and for preventing Marriages consummated from being avoided by Pre-contracts, and for the more effectual punishing of Bigamy*; also of an act passed in the thirty-third year of the reign of King George the Third, intituled *An Act for the Relief of his Majesty's Popish or Roman Catholic Subjects of Ireland*, as contains any penal enactment which exclusively affects a Roman Catholic clergyman celebrating marriage between any persons, knowing them or either of them at the time of such marriage to be of the Protestant religion, or as declares or enacts that any Roman Catholic clergyman who shall celebrate any marriage between two Protestants or reputed Protestants, or between a Protestant or reputed Protestant and a Roman Catholic, shall be guilty of felony, and suffer death as a felon, without benefit of clergy or of the statute, or as enacts and declares that any Roman Catholic clergyman who shall celebrate any marriage between two Protestants, or between any such Protestant and Papist, unless such Protestant and Papist shall have been first married by a clergyman of the Protestant religion, shall forfeit the sum of five hundred pounds to his Majesty upon conviction thereof, shall from and after the passing of this act be repealed, and that so much and such parts only of the said recited acts are hereby repealed.

So much of the acts herein named of 6 Anne (1.)
12 G. 1, (1.)
23 G. 2, (1.)
12 G. 3, (1.)
33 G. 3, (1.) as makes it felony for Roman Catholic clergymen to celebrate marriages between Protestants, &c. repealed.

Nothing herein to extend to any former proceedings, nor to affect any of the recited acts that repeal former acts.
Act not to give validity to any ceremony not now valid, &c.

II. Provided always, that nothing herein contained shall extend to any proceeding, criminal or civil, commenced before the passing of this act; and that nothing herein contained shall be construed to repeal so much of any of the said recited acts as expressly or by implication repeals any former act or acts, nor to revive or recognize any enactment as being in force at the time of the passing of this act which by any act heretofore made was expressly or by implication repealed or altered.

III. That nothing in this act shall extend or be construed to extend to the giving validity to any marriage ceremony in Ireland, which ceremony is not now valid under the existing laws, or to the repeal of any enactments now in force for preventing the performance of the marriage ceremony by degraded clergymen.

[No. V.] 5 & 6 W. IV. c. 54.—An Act to render certain Marriages valid, and to alter the Law with respect to certain voidable Marriages. [31st August 1835].

No. V.
5 & 6 W. 4,
c. 54.

WHEREAS marriages between persons within the prohibited degrees are voidable only by sentence of the ecclesiastical court pronounced during the lifetime of both the parties thereto, and it is unreasonable that the state and condition of the children of marriages between persons within the prohibited degrees of affinity should remain unsettled during so long a period, and it is fitting that all marriages which may hereafter be celebrated between persons within the prohibited degrees of consanguinity or affinity should be *ipso facto* void, and not merely voidable: be it therefore enacted, &c. That all marriages which shall have been celebrated before the passing of this act between persons being within the prohibited degrees of affinity shall not hereafter be annulled for that cause by any sentence of the ecclesiastical court, unless pronounced in a suit which shall be depending at the time of the passing of this act: provided that nothing hereinbefore enacted shall affect marriages between persons being within the prohibited degrees of consanguinity.

II. That all marriages which shall hereafter be celebrated between persons within the prohibited degrees of consanguinity or affinity shall be absolutely null and void to all intents and purposes whatsoever.

III. Provided always, that nothing in this act shall be construed to extend to that part of the United Kingdom called Scotland.

Marriages before the passing of this act of persons within the prohibited degrees not to be annulled.

Marriages of persons within prohibited degrees hereafter to be absolutely void.

Not to extend to Scotland.

PART I.

CLASS IV.

PARENT AND CHILD.

[There has been no recent statute on this subject. The provisions of the new Poor Law Act, (4 and 5 W. 4, c. 76,) with respect to Bastards will be found under Part VI., Justices of the Peace, Class 28, Poor.]

PART I.

CLASS V.

CORPORATIONS.

[No. I.] 1 W. IV. c. 21.—An act to improve the Proceedings in Prohibition and on Writs of Mandamus. [30th March 1831.]

WHEREAS the filing a suggestion of record on application for a writ of prohibition is productive of unnecessary expence, and the allegation of contempt in a declaration in prohibition filed before writ issued is an unnecessary form; and it is expedient to make some better provision for payment of costs in cases of prohibition; be it enacted, &c. That it shall not be necessary to file a suggestion on any application for a writ of prohibition, but such application may be made on affidavits only; and in case the party applying shall be directed to declare in prohibition before writ issued, such declaration shall be expressed to be on behalf of such party only, and not, as heretofore, on the behalf of the party and of his Majesty, and shall contain and set forth in a concise manner so much only of the proceeding in the court below as may be necessary to shew the ground of the application, without alleging the delivery of a writ or any contempt, and shall conclude by praying that a writ of prohibition may issue; to which declaration the party defendant may demur, or plead such matters, by way of traverse or otherwise, as may be proper to shew that the writ ought not to issue, and conclude by praying that such writ may not issue; and judgment shall be given, that the writ of prohibition do or do not issue, as justice may require; and the party in whose favour judgment shall be given, whether on nonsuit, verdict, demurrer, or otherwise, shall be entitled to the costs attending the application and subsequent proceedings, and have judgment to recover the same; and in case a verdict shall be given for the party plaintiff in such declaration, it shall be lawful for the jury to assess damages, for which judgment shall also be given, but such assessment shall not be necessary to entitle the plaintiff to costs.

II. That so much of an act passed in the second and third years of the reign of king Edward the sixth, intituled, *An Act for Payment of Tithes*, as relates to prohibition, shall be and the same is hereby repealed.

III. And whereas the provisions contained in a certain act of parliament passed in the ninth year of the reign of Queen Anne, intituled, *An Act for rendering the Proceedings upon Writs of Mandamus and Informations in the nature of a Quo warranto more speedy and effectual, and for the more easy trying and determining the rights of Offices and Franchises in Corporations and Boroughs*, relating to the writs of mandamus therein mentioned, have been found useful and convenient, and the same ought to be extended to the proceeding on other such writs: be it therefore enacted, That the several enactments contained in the said statute relating to the return to writs of mandamus, and the proceedings on such returns, and to the recovery of damages and costs, shall be and the same are hereby extended and made applicable to all other writs of mandamus, and the proceedings thereon, except so far only as the same may be varied or altered by this act.

IV. And whereas writs of mandamus, other than such as relate to the offices and franchises mentioned in or provided for by the said act made in the ninth year of the reign of Queen Anne, are sometimes issued to

Applications for writs of prohibitions may be made on affidavit only.

Contents of declaration in case the party is directed to declare in prohibition.

Defendant may demur to declaration.

Judgment. Costs.

Damages.

So much of 2 & 3 Ed. 6, c. 13, as relates to prohibition repealed.

The enactments of 9 Anne, c. 20, relating to returns to writs of mandamus therein mentioned, and the proceedings thereon, extended to all other writs of mandamus.

For protection of certain officers to whom writs of mandamus are directed.

officers and other persons, commanding them to admit to offices, or d
 or perform other matters, in respect whereof the persons to whom such
 writs are directed claim no right or interest, or whose functions are
 merely ministerial in relation to such offices or matters; and it may be
 proper that such officers and persons should in certain cases be pro-
 tected against the payment of damages or costs to which they may
 otherwise become liable; be it therefore enacted, That it shall be lawful
 for the court to which application may be made for any writ of manda-
 mus, (other than such as relate to the said offices and franchises men-
 tioned in or provided for by the said act made in the reign of Queen
 Anne,) if such court shall see fit so to do, to make rules and orders,
 calling not only upon the person to whom such writ may be required
 to issue, but also all and every other person having or claiming any
 right or interest in or to the matter of such writ, to shew cause against
 the issuing of such writ and payment of costs of the application, and
 upon the appearance of such other person in compliance with such
 rules, or in default of appearance after service thereof, to exercise all
 such powers and authorities, and make all such rules and orders, appli-
 cable to the case, as are or may be given or mentioned by or in any act
 passed or to be passed during this present session of parliament for
 giving relief against adverse claims made upon persons having no inter-
 est in the subject of such claims: Provided always, that the return to
 be made to any such writ, and issues joined in fact or in law upon any
 traverse thereof, or upon any demurrer, shall be made and joined by and
 in the name of the person to whom such writ shall be directed; but
 nevertheless the same shall and may, if the court shall think fit so to
 direct, be expressed to be made and joined on the behalf of such other
 person as may be mentioned in such rules; and in that case such other
 person shall be permitted to frame the return, and to conduct the sub-
 sequent proceedings, at his own expence; and in such case, if any judg-
 ment shall be given, for or against the party suing such writ, such
 judgment shall be given against or for the person or persons on whose
 behalf the return shall be expressed to be made, and who shall have
 the like remedy for the recovery of costs and enforcing the judgment
 as the person to whom the writ shall have been directed might and
 would otherwise have had.

No. I.
 1 W. 4, c. 21.

V. That in case the return to any such writ, shall, in pursuance of
 the authority given by this act, be expressed to be made on behalf of
 any other person as aforesaid, the further proceedings on such writ shall
 not abate or be discontinued by the death or resignation of, or removal
 from office of, the person having made such return, but the same shall
 and may be continued and carried on in the name of such person; and
 if a peremptory writ shall be awarded, the same shall and may be di-
 rected to any successor in office or right to such person.

Proceedings
 not to abate by
 removal of
 officer.

VI. And for making some further provision for the payment of costs
 on applications for mandamus, be it further enacted, That in all cases
 of application for any writ of mandamus whatsoever, the costs of such
 application, whether the writ shall be granted or refused, and also the
 costs of the writ, if the same shall be issued and obeyed, shall be in
 the discretion of the court, and the court is hereby authorized to order
 and direct by whom and to whom the same shall be paid.

Costs to be in
 the discretion
 of the court.

[It was held that the above statute did not apply to cases where the
 proceeding had commenced before the statute came into operation.
Rez v. Inhabitants of Wis, 2 Barn. and Adol. 197, and *Rez v. Hungerford
 Market Company*, 2 Barn. and Adol. 204, note.

Under the 6th section the costs of a mandamus and of applying for
 it may be obtained by a distinct motion, after the issuing of the writ,
 and upon such a motion the court will refer for its guidance to the
 affidavits filed in support of the application for a mandamus, if it be
 clear that both applications are made by the same parties. *Rez v. Kirke*,
 5 Barn. and Adol. 1089.]

No. II.
2 & 3 W. 4,
c. 69.

[No. II.] 2 and 3 W. IV. c. 69.—An Act to prevent the Application of Corporate Property to the Purposes of Election of Members to serve in Parliament.

[1st August 1832.]

Monies or personal property belonging to municipal corporations not to be applied in or towards parliamentary elections:

and all bonds, &c. for securing the same void.

Payments, &c. made for the purpose of inducing any person to exert himself in elections at a future time to be considered as with in this act.

All dispositions of real property, for the purpose of satisfying or securing any expences hereby prohibited, to be void.

All votes and other proceedings contrary to this act to be void.

WHEREAS the property belonging to cities, towns, cinque ports, and boroughs corporate in the United Kingdom of Great Britain and Ireland may be wasted and dissipated by the application thereof in or towards the expences attendant upon parliamentary elections, to the great detriment of such municipal corporations; and it is expedient to make provision to prevent such detriment, and also to ensure the freedom of election by restraining the application of corporate property as before-mentioned: be it therefore enacted, &c.: That from and after the passing of this act it shall not be lawful for any municipal corporation as aforesaid, or any court, guild, council, or assembly constituting or composed of the ruling or governing part or class thereof, or any corporate officer, trustee, or other person acting on behalf of such corporation or any part thereof, to pay, transfer, give, bestow, or apply any sum or sums of money, or any parliamentary or other stocks, funds, or securities for money, or any personal chattel, belonging to or vested in the same corporation or any part thereof, or in any individual in trust for, or for the benefit of such corporation, in satisfaction, compensation, or discharge of any expences incident to or incurred or occasioned by the election of a member to serve in the commons house of parliament, or by any person offering himself as a candidate at or previous to a parliamentary election; and that all bonds, covenants, recognizances, or judgments given, executed, or suffered by any such corporation, or any part or class thereof, or by any corporate officer, trustee, or other person in the name or on the behalf of such corporation, for the purpose of securing the payment of such expences, shall be utterly void.

II. That any gifts, transfers, payments, or gratuities, bonds, covenants, recognizances, or judgments, made, paid, given, executed, or suffered by any corporation, part of a corporation, or corporate officer, or trustee, or other person as aforesaid, for the purpose of inducing or influencing any person or persons to labour in parliamentary elections at a future time, or to pay, satisfy, or incur any such expences as aforesaid at a future time, shall be deemed to be payments, transfers, applications, and securities forbidden and declared void by this act, although the same may be ostensibly and colourably made, paid, given, executed, or suffered for any other cause or consideration.

III. That all conveyances, mortgages, leases, or other assurances or dispositions of lands, tenements, or hereditaments, belonging to or vested in or held in trust for any municipal corporation, made or executed for the purpose of securing, satisfying, or compensating any expences, debts, payments, or disbursements, liabilities or engagements, incurred or to be incurred by the same corporation, or any part or class thereof, or any member, officer, or trustee thereof, or by any other person on behalf of such corporation, contrary to the true intent and meaning of this act, and all estates, charges, and incumbrances thereby created, shall be utterly void.

IV. That all votes, orders, or resolutions, acts, bye laws, or other proceedings made, passed, or adopted by any municipal corporation, or any part or class thereof, or any member or members thereof, for the purpose of directing or authorizing, or pretending to direct or authorize, any payment, matter, or thing forbidden by this act, or for the purpose of evading the provisions hereby enacted, shall be utterly void.

V. That any corporate officer, trustee, or other person who shall make or concur in making any payment, transfer, or application of corporation money, stocks, funds, or securities, or personal chattel, as aforesaid, contrary to the true intent and meaning of this act, shall be deemed and taken to have made the same in his own wrong, and that he shall be individually liable to repay, satisfy, and make good the amount or value thereof to the same corporation, notwithstanding any release or pretended indemnity which may be given to him in the name of the same corporation or any part or class thereof, or by any person or persons on behalf of such corporation.

good the amount or value so

No. II.
2 & 3 W. 4,
c. 69.

Corporate officers or others making any payment contrary to this act, to make misapplied.

VI. And in order to frustrate any fraudulent connivance or concealment, be it enacted, That it shall and may be lawful for any two or more freemen, burgesses, or corporators of such municipal corporation to commence, bring, and prosecute any action or suit at law or in equity, in the name of the same corporation, against any officer, trustee, or other person who may have made such illegal payment, transfer, or application as above mentioned, in the same manner, to all intents and purposes, as if they, their executors and administrators, were jointly and severally appointed the irrevocable attorneys of such corporation for that purpose: Provided nevertheless, that before the defendant in such action or suit shall be required to plead or answer, the plaintiffs shall give reasonable security for payment of costs, in case any shall become due from them, by the event of the action or suit, in such manner as the court in which the same shall be brought may direct; such costs to be taxed as between attorney and client.

Corporators empowered to bring actions or suits in the name of the corporation.

VII. That any member of a municipal corporation who shall authorize, direct, or command any payment, transfer, or application hereby forbidden, or who shall assent to or concur or participate in any affirmative vote, order, or proceeding relating thereto, or shall sign or seal in his individual capacity or affix the corporate seal to any deed or instrument hereby declared void, shall be guilty of a misdemeanor, and, being thereof legally convicted in his Majesty's court of King's Bench at Westminster, shall, in addition to such punishment as the court may award, be for ever disabled to take, hold, or exercise any office in the same corporation.

Members of corporations offending against this act guilty of a misdemeanor.

[No. III.] 2 & 3 W. IV. c. 80.—An Act to authorize the identifying of Lands and other Possessions of certain Ecclesiastical and Collegiate Corporations. [3d August 1832.]

WHEREAS the archbishops and bishops of the several dioceses, and the deans, and deans and chapters, archdeacons, prebendaries, and canons, and other dignitaries and officers of the several cathedral and collegiate churches and chapels, and the masters or other heads, and fellows and scholars or other societies of the several colleges and halls in the Universities of Oxford and Cambridge, and of the colleges of Winchester and Eton, are proprietors of divers manors, messuages, lands, tenements, tithes, and hereditaments, and in many cases the boundaries or quantities and the identity of lands within such manors, and of such messuages, lands, tenements, and hereditaments, and of lands subject to any such tithes, or some part or parts thereof, are unknown or disputed, and it would be a great benefit, as well to such proprietors respectively, as to their lessees, copyhold or customary tenants, sub-lessees, or under-tenants, their, his, or her heirs, executors, administrators, or assigns, if the said manors, messuages, lands, tenements, tithes, and hereditaments were identified, and the boundaries and quantities thereof ascertained and finally settled: Be it enacted, &c. that

bishops, deans and chapters, &c. may enter into agreements or deeds of reference with their lessees to ascertain and settle unknown or disputed boundaries or quantities of manors, &c. leased.

Archbishops,

No. III.
2 & 3 W. 4.
c. 80.

Referees to make surveys, maps, and admeasurements; to summon and examine witnesses on oath; to call for all deeds, &c. ;

to make awards, with maps thereto, on parchment or vellum.

Awards and maps to be laid before parties, and their approbation to be written.

Certain consents required to render valid proceedings under this act.

Power to infants, married women, lunatics, &c. to enter into reference.

from and after the passing of this act it shall and may be lawful to and for any archbishop, bishop, dean, dean and chapter, or other corporation aggregate or sole herein-before mentioned, to enter into an agreement of reference or deed of submission with his or their lessee or lessees, copyhold or customary tenant or tenants, sub-lessee or sub-lessees, under-tenant or under-tenants, his, her, or their heirs, executors, administrators, or assigns, or with the owner or owners of any other hereditaments adjoining to or intermixed with the said manors, messuages, lands, tenements, tithes, or hereditaments, whereby it shall be agreed that any unknown or disputed boundaries or quantities of such manors, messuages, lands, tenements, tithes, or hereditaments, or any part thereof, shall be referred to the adjudication of such person or persons as may be agreed upon and named by the said archbishop, bishop, dean, dean and chapter, or other corporation aggregate or sole, and by his or their lessee or lessees, copyhold or customary tenant or tenants, sub-lessee or sub-lessees, under-tenant or under-tenants, his, her, or their heirs, executors, administrators, or assigns, or by such owner or owners of any other hereditaments situate as aforesaid; and that such referee or referees shall be fully authorized to make or cause to be made surveys, maps, and admeasurements of the said manors, messuages, lands, tenements, tithes, and hereditaments, or any part thereof, and to summon any persons as witnesses, and examine them on oath (which oath he or they are hereby authorized to administer) touching or concerning any of the matters or things so referred as aforesaid, or in any way relating thereto; and also to call for the production of all surveys, maps, deeds, books, papers, and writings in the custody or power of any of the parties to the said reference, or of any other person or persons, of or concerning the matters in question; and the said referee or referees, having well and sufficiently investigated and considered the same, and all matters to him or them referred, shall and may make his or their award or awards in writing, under his or their hand and seal or hands and seals, with a map or maps drawn thereupon or thereunto annexed, and which said award or awards and map or maps shall be upon parchment or vellum, and shall award and determine, identify, delineate, and describe the boundaries, quantities, particulars, and situations of the said manors, messuages, lands, tenements, tithes, and hereditaments so referred to him or them as aforesaid; and the said award or awards and map or maps shall be laid before all the parties to any such agreement of reference or deed of submission, including the party or parties whose consent is required by this act, whose approbation thereof shall be written upon the said award or awards, and shall be signed and sealed by them, and thereupon the said award or awards, and map or maps shall be for ever afterwards binding upon all parties, and final and conclusive as to all matters therein contained or thereby referred to.

II. Provided always, that in every case in which any of the powers herein-before contained shall be exercised by any bishop, dean, archdeacon, prebendary, or other ecclesiastical corporation sole, the deed of submission or agreement of reference, and also the approbation of the award, shall, in the case of a bishop, be executed by the archbishop of the province testifying his consent thereto; or in case of a dean, the same shall be executed by the dean and chapter testifying their consent thereto; or in the case of an archdeacon, prebendary, or other ecclesiastical corporation sole, the same shall be executed by the archbishop or bishop of the diocese testifying his consent thereto.

III. That from and after the passing of this act it shall and may be lawful to and for the said lessee or lessees, copyhold or customary tenant or tenants, sub-lessee or sub-lessees, under-tenant or under-tenants, and such other owner or owners as herein-before named, his, her, or their heirs, executors, administrators, or assigns, who at the time of making any reference authorized by this act shall be tenant or tenants in fee tail, general or special, or for life or lives, and for the guardians, husbands, committees, or attornies of or acting for any such

lessee or lessees, copyhold or customary tenant or tenants, sub-lessee or sub-lessees, under-tenant or under-tenants, and such other owner or owners as herein-before named, his, her, or their heirs, executors, administrators, or assigns, who at the time of making any such reference shall be respectively an infant or infants, feme covert or femes covert, or of unsound mind, or beyond the seas, or under any other legal disability, or otherwise disabled to act for themselves, himself, or herself, to sign, seal, and deliver any agreement of reference or deed of submission or approbation of any award or awards and map or maps authorized by this act to be made, as fully and effectually to all intents and purposes as if such lessee or lessees, copyhold or customary tenant or tenants, sub-lessee or sub-lessees, under-tenant or under tenants, and such other owner or owners as herein-before named, his, her, or their heirs, executors, administrators, or assigns, had been tenant or tenants in fee simple, and of full age, sole, of sound mind, or within the realm of England, and not under any other legal disability.

No. III.
2 & 3 W. 4,
c. 80.

IV. That immediately after the execution by the parties of the instrument shewing their approbation of any award to be made by virtue of this act, the agreement of reference or deed of submission, and also the award or awards and map or maps, authorized to be made by this act, and a copy of the minutes of evidence whereupon the same is made, shall be deposited, in the case of any reference by any archbishop or bishop, in the office of their own registrar; and in case of any reference by any dean, dean and chapter, archdeacon, prebendary, canon, and other dignitary and officer of a cathedral or collegiate church or chapel, in the office of the registrar of the dean and chapter thereof; and in case of any reference by any masters or other heads, or by any fellows and scholars, or other societies herein-before named, in the office of the steward or other proper officer of their said colleges and halls; and every such registrar, steward, or other officer, or some person or persons on his behalf, shall produce the documents and papers so deposited with him, or any of them, at all proper and usual hours of business, to every person interested in the subject matter of such award, or to his or her agent duly authorized, who shall make application to inspect the same or any of them, and shall furnish a copy or copies of the same or any of them to every such person or agent who shall make application for such copy or copies; and every such registrar, steward, or other officer shall in every case be entitled to the sum of five shillings and no more for receiving and preserving the agreement of reference or deed of submission, award or awards, map or maps, and copy of the minutes of evidence as aforesaid; and the sum of one shilling and no more for every production of the same or any of them to be inspected; and the sum of sixpence and no more for every folio containing seventy-two words of every copy; and the sum of ten shillings and no more for every copy of a map so made as aforesaid.

Agreements or deeds of reference, awards and maps, to be deposited in registry of archbishop, bishop, &c.

Documents to be produced for inspection.

Registrar's fees.

V. That the expences attending every reference which shall be made under the authority of this act, and all the proceedings hereby required relating to the same, shall be paid and borne by the parties thereto in such manner, shares, and proportions as they shall agree; and in case the said parties shall not make any agreement relating to such expences, then all such expences, or so much thereof as shall not be provided for by such agreement, shall be paid and borne by the said parties in equal moieties.

Expences of reference how to be paid.

VI. Provided also, That this act shall extend only to that part of the United Kingdom called England and Wales.

Act limited to England and Wales.

No. IV.
3 & 4 W. 4,
c. 31.

[No. IV.] 3 & 4 W. IV. c. 31.—An Act to enable the Election of Officers of Corporations and other Public Companies now required to be held on the Lord's Day to be held on the Saturday next preceding, or on the Monday next ensuing. [24th July 1833.]

Elections of officers of corporations and other public companies now required to be held on a Sunday shall be held on the Saturday preceding or the Monday following.

If election does not take place on the Saturday the person holding the office to continue until the so to do Monday.

Elections not made on such Saturday or Monday shall be taken to be within the provisions of 11 G. 1, c. 4.

WHEREAS the profanation of the Lord's Day is greatly increased by reason of certain meetings which are usually or occasionally held thereon: and whereas it is the duty of the legislature to remove as much as possible, impediments to the due observance of the Lord's Day; be it therefore enacted, &c., That every meeting or adjourned meeting of any vestry or corporation, whether ecclesiastical or civil, or of any public company, for the nomination, election, appointment, swearing in, or admission of any officer or officers, or for the transaction of any other secular affair of such vestry, corporation, or company, and every other meeting of a public and secular nature, which, according to any act of parliament, or according to any charter, grant, constitution, deed, testament, law, prescription, or usage whatsoever, is or shall be required to be held on any Lord's Day, or on any day which shall happen to be on a Lord's Day, shall be held on the Saturday next preceding, or on the Monday next ensuing, at the like hour, with like form and effect, as if the same had been held on such Lord's Day; and every matter transacted at any such meeting or adjourned meeting held upon any Lord's Day, shall be absolutely void and of none effect, to all intents and purposes whatsoever: Provided always, that when no such nomination, election, appointment, swearing in, or admission shall have taken place on such Saturday, every person whose term of office would, according to any such act, charter, grant, constitution, deed, testament, law, prescription, or usage, have expired on any such Lord's Day, shall continue in office, and exercise and enjoy all the powers and privileges annexed or relating to such office, until and on such Monday next ensuing, in the same manner as if such Monday had been the customary day of nomination, election, appointment, swearing in, or admission.

II. That whenever the nomination, election, appointment, swearing in, or admission of any such officer or officers as before mentioned, shall not take place on such Saturday or Monday, or shall become void, the case shall be and is hereby declared to be within the provisions of an act made and passed in the eleventh year of his late Majesty King George the first, intituled *An Act for preventing the Inconveniencies arising for Want of Elections of Mayors or other Chief Magistrates of Boroughs or Corporations being made upon the Days appointed by Charter or Usage for that Purpose, and directing in what Manner such Elections shall be afterwards made* as fully and effectually as if such officer or officers had been expressly named in the said act.

[No. V.] 5 & 6 W. 4, c. 76.—An Act to provide for the Regulation of Municipal Corporations in England and Wales. [9th September 1835.]

WHEREAS divers bodies corporate at sundry times have been constituted within the cities, towns, and boroughs of England and Wales, to the intent that the same might for ever be and remain well and quietly governed; and it is expedient that the charters by which the said bodies corporate are constituted should be altered in the manner herein-after mentioned; be it therefore enacted, &c., That so much of all laws, statutes, and usages, and so much of all royal and other charters, grants, and letters patent now in force relating to the several boroughs named in the schedules (A.) and (B.) to this Act annexed, or

Repeal of all acts, charters, and customs inconsistent with this act.

to the inhabitants thereof, or to the several bodies or reputed bodies corporate named in the said schedules, or any of them, as are inconsistent with or contrary to the provisions of this act, shall be and the same are hereby repealed and annulled.

II. And whereas in divers cities, towns, and boroughs the common lands and public stock of such cities, towns, and boroughs, and the rents and profits thereof, have been held and applied for the particular benefit of the citizens, freemen, and burgesses of the said cities, towns, and boroughs respectively, or of certain of them, or of the widows or kindred of them, or certain of them, and have not been applied to public purposes; be it therefore enacted, That every person who now is or hereafter may be an inhabitant of any borough, and also every person who has been admitted or who might hereafter have been admitted a freeman or burgess of any borough if this act had not been passed, or who now is, or hereafter may be the wife or widow or son or daughter of any freeman or burgess, or who may have espoused or may hereafter espouse the daughter or widow of any freeman or burgess, or who has been or may hereafter be bound an apprentice, shall have and enjoy and be entitled to acquire and enjoy the same share and benefit of the lands, tenements, and hereditaments, and of the rents and profits thereof, and of the common lands and public stock of any borough or body corporate, and of any lands tenements and hereditaments, and any sum or sums of money, chattels, securities for money, or other personal estate, of which any person or any body corporate may be seised or possessed in whole or in part for any charitable uses or trusts, as fully and effectually, and for such time and in such manner, as he or she by any statute, charter, bye-law, or custom in force at the time of passing this act might or could have had, acquired, or enjoyed in case this act had not been passed: Provided always, that the total amount to be divided amongst the persons whose rights are herein reserved in this behalf shall not exceed the surplus which shall remain after payment of the interest of all lawful debts chargeable upon the real or personal estate out of which the sums so to be divided have arisen, together with the salaries of municipal officers, and all other lawful expences which, on the fifth day of June, were defrayed out of or chargeable upon the same: Provided also, that nothing herein-before contained shall be construed to apply to any claim, right, or title of any burgesses or freemen, or of any person, to any discharge or exemption from any tolls or dues levied wholly or in part by or to the use or benefit of any borough or body corporate; and that after the passing of this act no person shall have or be entitled to claim thenceforward any discharge or exemption from any tolls or dues lawfully levied in whole or in part by or to the use of any body corporate, except as herein-after is excepted: Provided nevertheless, that every person who, on the fifth day of June in this present year, was an inhabitant, or was or was entitled to be admitted a freeman or burgess of any borough, or who on the said fifth day of June was the wife or widow, son or daughter of any freeman or burgess of any borough, or who on the said fifth day of June was bound an apprentice, shall be entitled to have or acquire and enjoy the same discharge or exemption from any tolls or dues lawfully levied in whole or in part by or to the use of any borough or body corporate as fully and for such time and in such sort as he or she, by any statute, charter, bye-law, or custom in force on the said fifth day of June, might or would have had, acquired, and enjoyed the same if this act had not been passed, and no further or otherwise: Provided also, that where, by any statute, charter, bye-law, or custom in force within any borough at the time of passing this act, any person whose rights in this behalf are herein reserved would have been liable in case this act had not been passed to pay any fine, fee, or sum of money to any body corporate, or to any member, officer, or servant of any body corporate, in consideration of his freedom, or of his or her title to such rights as are herein reserved, no such person shall be entitled to have or claim any share or benefit in respect of

No. V.
5 & 6 W. 4,
c. 76.

Reservation of
all rights of
property and
beneficial ex-
emptions to
freemen, their
wives and
children.

No. V.
5 & 6 W. 4,
c. 76.

the rights herein reserved as aforesaid, until he or she shall have paid the full amount of such fine, fee, or sum of money to the treasurer of such borough, appointed under the provisions of this act, on account of the borough fund herein-after mentioned: Provided also, that nothing in this act contained shall be construed to entitle any person to any share or benefit of the rights herein reserved, who shall not have first fulfilled every condition which, if this act had not passed, would have been a condition precedent to his or her being entitled to the benefit of such rights, so far as the same is capable of being fulfilled according to the provisions of this act, or to strengthen, confirm, or affect any claim, right, or title of any burgesses or freemen of any borough or body corporate, or of any person, to the benefit of any such rights as are herein-before reserved, but the same in every case may be brought in question, impeached, and set aside in like manner as if this act had not been passed.

No freedom to
be acquired by
gift or purchase

III. Provided always, That from and after the passing of this act, no person shall be elected, made, or admitted a burgess or freeman of any borough by gift or purchase.

2. W. 4, c. 45.

Reservation of
the parlia-
mentary fran-
chise to free-
men.

IV. And whereas the right of voting in the election of members to serve in parliament was by an act passed in the second year of the reign of his present Majesty, intituled *An Act to amend the Representation of the People of England and Wales*, preserved to all persons who then were or thereafter might become freemen or burgesses of any city or borough, subject to the conditions and provisions in that act contained, be it therefore enacted, That every person who if this act had not been passed would have enjoyed, as a burgess or freeman, or might hereafter have acquired, in respect of birth or servitude, as a burgess or freeman the right of voting in the election of a member or members to serve in parliament for any city or borough, shall be entitled to enjoy or acquire such right of voting as fully as if this act had not been passed; and the town clerk of every city or borough returning a member or members to parliament shall at all times hereafter do and perform all things appertaining to the due registration of the freemen or burgesses of such city or borough according to the provisions of the said act.

Freemen's roll
to be made out
and kept by the
town clerk.

V. That the town clerk of every borough shall on or before the first day of December next make out a list, to be called "The Freemen's Roll," of all persons who at the time of the passing of this act shall have been admitted as burgesses or freemen of such borough; and that whenever any person shall hereafter become entitled to be admitted a burgess or freeman for the purposes aforesaid of such borough in respect of birth, servitude, or marriage, and shall claim to be admitted accordingly, the mayor of such borough shall examine into such claim and upon such claim being established every such person shall then upon be admitted and enrolled by the town clerk of such borough upon the freemen's roll; and the town clerk shall keep a true copy of such roll, to be perused by any person without payment of any fee, at a reasonable times, and shall deliver a copy thereof to any person requiring the same, on payment of a reasonable price for such copy.

Corporations to
be styled mayor,
aldermen, and
burgesses.

VI. That after the first election of councillors under this act in any borough the body or reputed body corporate named in the said schedule in connexion with such borough shall take and bear the name of the mayor, aldermen, and burgesses of such borough, and by that name shall have perpetual succession, and shall be capable in law, by the council herein-after mentioned of such borough, to do and suffer all acts which now lawfully they and their successors respectively may do and suffer by any name or title of incorporation; and the mayor of each of the said boroughs shall be capable in law to do and suffer all acts which the chief officer of such borough may now lawfully do and suffer, so far as the same respectively are not altered or annulled by the provisions of this act.

Boundaries.

VII. That after the passing of this act the metes and bounds of the of certain boroughs to be those settled by 2 & 3 W. 4, c. 64.

several boroughs named in the first section of the said Schedules (A.) and (B.) for the purposes of this act shall be the same as the limits thereof respectively settled and described in an act passed in the second and third year of the reign of his present Majesty, intituled *An Act to settle and describe the Divisions of Counties and the Limits of Cities and Boroughs in England and Wales, so far as respects the Election of Members to serve in Parliament*; and the metes and bounds of the several boroughs named in the second section of the said schedules for the purposes of this act shall be and remain as the same are now taken to be until such time as parliament shall otherwise direct: Provided nevertheless, that notwithstanding any thing herein contained no parish or place, or part of any parish or place, which is detached from the main part of such borough or county of a city or town corporate, shall after the passing of this act be included within any such borough or county; and, in respect of this provision, the metes and bounds of every such borough and county shall include the whole of the liberties of such borough or county by land and by water as the same now are or are taken to be.

VIII. That every place and precinct which shall be included within the metes and bounds of any borough as herein-before provided, and none other, shall be part of such borough, and in those boroughs which are counties of themselves shall be part of such county and of none other; and in every case in which the metes and bounds of any borough or county under the provisions of this act shall not include any place or precinct which before the passing of this act was part of such borough or county, such place or precinct shall thenceforward be taken to be part of the county wherein such place or precinct is situated, or with which it has the longest common boundary: Provided nevertheless, that if any such place or precinct shall have been liable before the passing of this act to contribute to any rate made for the purpose of satisfying any lawful debt to which the rate-payers of such borough or county were liable to contribute before the passing of this act, and in case any difference shall arise concerning the proportion of such debt as ought therefore to be paid and contributed in respect of such place or precinct, it shall be lawful for the senior justice of assize for the county of which such place or precinct shall thenceforward be taken to be part, on his circuit, on the application of the council of such borough, or of the chairman of a public meeting of the rate-payers of such place or precinct, to appoint, by writing under his hand, a barrister not having any interest in the question to arbitrate between the parties, and by his award, under his hand and seal to assess the proportion, if any, of such debt as ought therefore to be paid and contributed in respect of such place or precinct; and such arbitrator shall also assess the costs of the arbitration, and shall direct by whom and in what proportion, and out of what fund, the same shall be paid; and such rate as aforesaid shall continue to be levied by warrant of the council of such borough, and paid by such place or precinct, as if this act had not passed, until such proportion shall have been fully paid and satisfied to the treasurer of the borough, and no longer: Provided nevertheless, that every county gaol, house of correction, or lunatic asylum, court of justice, or judge's lodging, which at the time of the passing of this act is taken to be for any purpose within any county shall still, for all such purposes, be taken to be within such county, any thing herein contained to the contrary notwithstanding.

IX. That every male person of full age who on the last day of August in any year shall have occupied any house, warehouse, counting-house, or shop within any borough during that year and the whole of each of the two preceding years, and also during the time of such occupation shall have been an inhabitant householder within the said borough, or within seven miles of the said borough, shall, if duly enrolled in that year according to the provisions herein-after contained, be a burgess of such borough and member of the body corporate of the mayor, aldermen, and burgesses of such borough: Provided always, that no such

No. V.
5 & 6 W. 4,
c. 76.

Boundaries of other boroughs to remain until altered by parliament.

Every place included within the bounds of a borough to be part of such borough. Parts cut off from the borough to be declared part of adjoining county.

Occupiers of houses and shops rated for 3 years to the relief of the poor, entitled to be burgesses, if resident householders, within seven miles.

No. V.
5 & 6 W. 4,
c. 76.

Aliens and persons who have received parochial relief not to be enrolled.

Medical assistance or instruction in endowed schools not to be a cause of disqualification.

Occupiers may claim to be rated.

In case of titles by descent, &c. how the occupation is to be reckoned.

No new Burgesses to be admitted who are not qualified under this act.

person shall be so enrolled in any year, unless he shall have been rated in respect of such premises so occupied by him within the borough at all rates made for the relief of the poor of the parish wherein such premises are situated during the time of his occupation as aforesaid, and unless he shall have paid on or before the last day of August as aforesaid all such rates, including therein all borough rates, if any, directed to be paid under the provisions of this act, as shall have become payable by him in respect of the said premises, except such as shall become payable within six calendar months next before the said last day of August: Provided also, that the premises in respect of the occupation of which any person shall have been so rated need not be the same premises or in the same parish, but may be different premises in the same parish or in different parishes: Provided also, that no person being an alien shall be so enrolled in any year, and that no person shall be so enrolled in any year who within twelve calendar months next before the said last day of August shall have received parochial relief or other alms, or any pension or charitable allowance from any fund in trusted to the charitable trustees of such borough herein-after mentioned: Provided that in every case provided in this act the distance of seven miles shall be computed by the nearest public road or way by land or water.

X. That no medical or surgical assistance given by the charitable trustees of any borough shall be taken to be such charitable allowance as shall disqualify any person from being enrolled a burgess as aforesaid; nor shall any person be so disqualified by reason that any child of such person shall have been admitted and taught within any public or endowed school.

XI. That in every borough it shall be lawful for any person occupying any house, warehouse, counting-house, or shop to claim to be rated to the relief of the poor in respect of such premises, whether the landlord shall or shall not be liable to be rated to the relief of the poor in respect thereof; and upon such occupier so claiming, and actually paying or tendering the full amount of the last made rate then payable in respect of such premises, the overseers of the parish in which such premises are situate are hereby required to put the name of such occupier upon the rate for the time being; and in case such overseer shall neglect or refuse so to do such occupier shall nevertheless, for the purposes of this act, be deemed to have been rated to the relief of the poor in respect of such premises from the period at which the rate shall have been made in respect of which he shall have so claimed to be rated as aforesaid: Provided always, that where by virtue of any act of parliament the landlord shall be liable to the payment of the rate for the relief of the poor in respect of any premises occupied by his tenant, nothing herein contained shall be deemed to vary or discharge the liability of such landlord, but in case the tenant who shall have been rated for such premises in consequence of any such claim as aforesaid shall make default in the payment of the poor's rate payable in respect thereof such landlord shall be and remain liable for the payment thereof in the same manner as if he alone had been rated in respect of the premises so occupied by his tenant.

XII. That where any house, warehouse, counting-house, or shop in any borough shall come to any person by descent, marriage, marriage settlement, devise, or promotion to any benefice or office, such person shall be entitled to reckon the occupancy and rating, in respect of the occupancy thereof by the person from or by whom such house, warehouse, counting-house, or shop shall have so come to him, as his own occupancy and rating conjointly with the time during which he shall have since occupied and been rated for the same, and shall be entitled to be enrolled a burgess in respect of such successive occupancy and rating, provided he shall be otherwise qualified as herein provided.

XIII. That after the passing of this act no person shall be enrolled

burgess of any borough, for the purpose of enjoying the rights conferred for the first time by this act, in respect of any title other than by occupancy and payment of rates within such borough, according to the meaning and provisions of this act.

No. V.
5 & 6 W. 4,
c. 76.

XIV. And whereas in divers cities, towns, and boroughs a certain custom hath prevailed, and certain bye-laws have been made, that no person, not being free of a city, town, or borough, or of certain guilds, mysteries, or trading companies within the same, or some or one of them, shall keep any shop or place for putting to show or sale any or certain wares or merchandize by way of retail or otherwise, or use any certain trades, occupations, mysteries, or handicrafts for hire, gain, or sale within the same; be it enacted, That, notwithstanding any such custom or bye-law, every person in any borough may keep any shop for the sale of all lawful wares and merchandizes by wholesale or retail, and use every lawful trade, occupation, mystery, and handicraft, for hire, gain, sale, or otherwise, within any borough.

Exclusive
rights of trading
abolished.

XV. That on the fifth day of September (1) in every year the overseers of the poor of every parish wholly or in part within any borough shall make out an alphabetical list, to be called "The Burgess List," according to the form number 1, in the schedule (D.) to this act annexed, of all persons who shall be entitled to be enrolled in the Burgess Roll of that year, according to the provisions of this act, in respect of property within such parish; and the overseers shall sign such burgess lists, and shall deliver the same to the town clerk of the borough on the said fifth day of September in every year, and shall keep a true copy of such lists, to be perused by any person, without payment of any fee, at all reasonable hours between the fifth (3) and fifteenth days of September in every year; and the town clerk shall forthwith cause copies to be printed of all overseers' lists delivered to him, and shall deliver a copy of all such lists to any person requiring the same, on payment of a reasonable price for each copy, and shall cause a copy of all such lists to be fixed on or near the outer door of the town hall, or in some public and conspicuous situation within the borough, on every day during the week next preceding the fifteenth day of September in every year.

Overseers to
make lists of
all persons
entitled to be
burgesses in
their respective
parishes.

XVI. Provided always, That in any borough in which there shall be no town clerk, or in which the town clerk shall be dead or incapable of acting, all matters by this act required to be done by and with regard to the town clerk shall be done by and with regard to the person executing the duties in such borough similar to those of town clerk, and if there be no such person, or if such person shall be dead or incapable of acting, then by and with regard to such fit person as the mayor of such borough shall appoint in that behalf: Provided always, that every precinct or place, whether extra-parochial or otherwise, which shall have no overseers, shall, for the purpose of making out such lists as aforesaid, be deemed within the parish adjoining thereto, such parish being wholly or in part situate within the same borough as such precinct or place, and if such precinct or place shall adjoin two or more parishes so situate as aforesaid it shall be deemed to be within the least populous of such parishes according to the last census for the time being; and the overseers of the poor of every such parish shall insert in the list for their parish the names of all persons who would have been entitled to be inserted in the lists of such precinct or place if such precinct or place had had overseers or been rated to the maintenance of the poor.

As to boroughs
in which there
is no town
clerk.

As to precincts,
&c. where
there are no
overseers.

XVII. That every person whose name shall have been omitted in any such burgess list and who shall claim to have his name inserted therein, shall, on or before the fifteenth day of September in every year, give the overseers' lists to give notice to the town clerk.

Persons
omitted from
the overseers'
lists to give notice to the town clerk.

(1) By an order in council issued under the authority given to his Majesty by s. 140, this day is the present year (1835) altered to the 7th of November.

(2) This year between the 7th and the 17th of November.

3. See the above note.

No. V.
5 & 6 W. 4,
c. 76.

Notices as to
persons not
entitled to be
retained in the
lists.

Lists of
claimants and
of persons ob-
jected to, to be
published, &c.

Mayor and
assessors to
revise lists,
and, upon due
proof, to insert
and expunge
names.

notice thereof to the town clerk in writing, according to the form number 2, in the said Schedule (D.), or to the like effect; and every person whose name shall have been inserted in any burgess list for any borough may object to any other person as not being entitled to have his name retained in the burgess list for the same borough, and every person so objecting shall, on or before the fifteenth day of September in every year, give to the town clerk of such borough, and also give to the person objected to, or leave at the premises for which he shall appear to be rated in the burgess list, notice thereof in writing according to the form number 3, in the said Schedule (D.) or to the like effect; and every town clerk shall include the names of all persons so claiming to be inserted on the burgess list in a list according to the form number 8, in the said Schedule (D.), and shall include the names of all persons so objected to as not entitled to be retained on the burgess list in a list according to the form number 5, in the said Schedule (D.), and shall cause copies of such several lists to be fixed on or near the outer door of the town hall or in some public and conspicuous situation within such borough during the eight days next preceding the first day of October in every year; and the town clerk shall likewise keep a copy of the names of all persons so claiming as aforesaid, and also a copy of the names of all persons so objected to as aforesaid, to be perused by any person, without payment of any fee, at all reasonable hours during the eight days, Sunday excepted, next preceding the first day of October in every year, and shall deliver a copy of each of such lists to any person requiring the same, on payment of a sum not exceeding one shilling for each copy.

XVIII. That the mayor and the two assessors herein-after mentioned, to be chosen in every year by the burgesses of every borough, shall hold an open court within such borough, for the purpose of revising the said burgess lists at some time between the first day (1) of October inclusive and the fifteenth day of October inclusive in the year one thousand eight hundred and thirty-six, and every succeeding year, having first given three clear days' notice of the holding of such court, to be fixed on or near the outer door of the town hall or in some public and conspicuous situation within the borough; and the town clerk of every such borough shall, at the opening of the court, produce the said lists, and a copy of the lists of the persons claiming and of the persons objected to, so made out as aforesaid; and the overseers, vestry clerks, and collectors of poor's rates of every parish wholly or in part within every such borough shall attend the court, and shall answer upon oath all such questions as the court may put to them or any of them touching any matter necessary for revising the burgess lists; and the mayor shall insert in such lists the name of every person who shall be proved, to the satisfaction of the court, to be entitled to be inserted therein, according to the provisions of this act, and shall retain on the said list the names of all persons to whom no objection shall have been duly made, and shall also retain on the said lists the name of every person who shall have been objected to by any person, unless the party so objecting shall appear by himself or by some one on his behalf in support of such objection; and where the name of any person inserted in any one of the said lists shall have been duly objected to, and the person objecting shall appear by himself or by some one on his behalf in support of such objection, the court shall require proof of the qualification of the person so objected to; and in case the qualification of such person shall not be proved to the satisfaction of the court the mayor shall expunge the name of every such person from the said lists, and he shall also expunge from the said lists the name of every person who shall be proved to the court to be dead, and shall correct any mistake or supply any omission which shall be proved to the court to have been made in any of the said lists in respect of the name or place of abode of any person who shall be included in

(1) In this year (1835) the revision is to be between the 1st and 15th of December.

any such list, or in respect of the local description of his property: provided always, that no person's name shall be inserted by the mayor in any such list, or shall be expunged therefrom, except in the case of death, unless notice shall have been given as is herein-before required in each of the said cases.

No. V.
5 & 6 W. 4,
c. 76.

XIX. That every mayor holding any court under this act for the revision of the said lists shall have power to adjourn the same from time to time, so that no such adjourned court shall be held after the fifteenth day of October in any year, and shall have power to require any overseer, or person having the custody of any book containing any list made for the relief of the poor during that or any preceding year, in any parish wholly or in part within the borough, to produce the same and allow the same to be inspected at any court to be held for revision of the burgess lists, and shall have power to administer an oath to the town clerk and to the overseers, and to all persons claiming to be inserted in or making objection to the omission or insertion of any name in any of the said lists, and to all persons objected to in any of such lists, and to all persons claiming to have any mistake in any of such lists corrected, and to all witnesses who may be tendered or examined on either side; and the mayor and assessors shall, upon the hearing in open court, determine upon the validity of such claims and objections, and the mayor shall, in open court, write his initials against the names respectively struck out or inserted, and against any part of the said lists in which any mistakes shall have been corrected, and shall sign his name to every page of the several lists so settled.

Power to
mayor, &c. of
adjourning, of
administering
oaths, &c.

Mayor shall
sign the lists in
open court.

XX. That the senior judge, or in case of his absence from the kingdom the next judge, in the commission of assize for the summer circuit in this year for every county, shall, before the last day of September in this year, appoint so many barristers as the said judge shall deem necessary to revise the lists of burgesses of every borough in or adjoining such county; and the town and county of the town of Kingston-upon-Hull shall for this purpose be considered as next adjoining to the county of York, and the town of Berwick-upon-Tweed and town and county of the town of Newcastle-upon-Tyne as next adjoining to the county of Northumberland, and the city and county of the city of Bristol as next adjoining to the county of Somerset; and the said judge shall have power to appoint one or more barristers to revise the lists for the same borough, and the same barrister to revise the lists of more than one borough; and the barrister so appointed to any borough shall for that purpose, during this year, be in the place and stead of the mayor and assessors of such borough, and shall revise the lists of burgesses in this year in the manner herein-before enacted concerning the mayor and assessors in every succeeding year; and if it shall be made to appear to the said judge that for any cause such lists cannot be revised within the period directed by this act, it shall be lawful for such judge and he is hereby required to appoint one or more barristers to act in the place of or in addition to those originally appointed; and every such barrister so subsequently appointed shall have the same power as if originally appointed; and every barrister appointed to revise any lists under this act shall be paid at the rate of five guineas for every day that he shall be so employed over and above his travelling and other expences; and every such barrister, after the termination of his last sitting, shall lay or cause to be laid before the lords commissioners of the Majesty's treasury for the time being a statement of the number of days during which he shall have been so employed in each borough, and an account of the travelling and other expences incurred by him in respect of such employment; and the said lords commissioners shall make an order for the amount to be paid to such barrister out of the consolidated fund: Provided nevertheless, that as soon as a council shall be chosen in any borough under the provisions of this act the said lords commissioners shall make an order on the council of such borough for the amount of daily salary herein-before enacted to be paid to such

Barristers to
be appointed
to revise lists in
the first year.

No. V.
5 & 6 W. 4,
c. 76.

Affirmation
may be substi-
tuted for oath.

Revised borough
lists to be
kept by the
town clerk, and
copied into
books, with the
names num-
bered.

Such book to
be the roll of
burgesses en-
titled to vote.

No stamp duty
on enrolment.

Copies of the
burgess roll
to be printed
for sale.

Expences of
overseers how
to be defrayed.

Mayor, alder-
men, and coun-
cillors to be
chosen in every
borough, who
together shall
constitute the
council of the
borough.

barrister during the time that he shall have been employed in revising the lists of such borough; and the council of such borough shall forthwith cause the same to be repaid to the said lords commissioners out of the borough fund of such borough; and the same, if not paid, shall be deemed to be a debt due to his Majesty, and recoverable as such.

XXI. That every person authorized by law to make an affirmation instead of taking an oath shall make such affirmation in every case in which by this act an oath is required to be taken; and if any person taking any oath required by this act, or making any affirmation instead of taking such oath, shall wilfully swear or affirm falsely, such person shall be deemed guilty of perjury, and shall be punished accordingly.

XXII. That the burgess lists so revised and signed as last aforesaid shall be delivered by the mayor to the town clerk of such borough, who shall keep the same, and shall cause the said burgess lists to be faithfully and truly copied into one general alphabetical list in a book to be provided for that purpose, with every name therein numbered beginning the numbers from the first name, and continuing them in regular series to the last name, and shall cause such books to be completed on or before the twenty-second day of October (1) in every year, and shall deliver such books, together with the lists, at the expiration of his office, to the person succeeding him in such office; and every such book in which the said burgess lists shall have been copied shall be the burgess roll of the burgesses of such borough entitled to vote after the passing of this act, in the choice of the councillors, assessors and auditors of such borough, as herein-after mentioned, at any election which may take place in such borough between the first day of November inclusive in the year wherein such burgess roll shall have been made and the first day of November in the succeeding year; Provided that no stamp duty shall be payable in respect of the admission to the registry, or enrolment of any burgess, according to the provisions of this act.

XXIII. That the town clerk of every borough shall cause to be written or printed copies of the burgess roll in every year, and shall deliver such copies to all persons applying for the same, on payment of a reasonable price for each copy; and the monies arising from the sale thereof, and of the overseers' lists, and of the lists of claims and objections as aforesaid, shall be paid over to the treasurer of such borough and shall be applied by him in aid of the borough fund herein-after mentioned.

XXIV. That the said council of every borough shall take an account of the reasonable expences incurred by the overseers of the poor in carrying into effect the several provisions of this act so far as relates to the said lists, and shall order the treasurer of the said borough to pay the same out of the borough fund of the said borough.

XXV. That in every borough shall be elected, at the time and in the manner herein-after mentioned, one fit person, who shall be and be called "the mayor" of such borough; and a certain number of fit persons who shall be and be called "aldermen" of such borough; and a certain number of other fit persons, who shall be and be called "the councillors" of such borough; and such mayor, aldermen, and councillors for the time being shall be and be called "the council" of such borough; and the number of persons so to be elected councillors of such borough shall be the number of persons in that behalf mentioned in conjunction with the name of such borough in the Schedules (A.) and (B.) to this act annexed; and the number of persons so to be elected aldermen shall be one third of the number of persons so to be elected councillors; and on the ninth day of November (2) in this present year, the councillors fit

(1) In 1835 the 22nd of December.

(2) In 1835 on the 31st of December.

be elected under the provisions of this act, and on the ninth day of November in the year one thousand eight hundred and thirty-eight, and every third succeeding year, the council for the time being of every borough, shall elect from the councillors, or from the persons qualified to be councillors, the aldermen of such borough, or so many as shall be needed to supply the places of those who shall then go out of office according to the provisions herein-after contained; and that upon the ninth day of November in the year one thousand eight hundred and thirty-eight, and in every third succeeding year, one half of the number appointed as aforesaid to be the whole number of the aldermen of every borough shall go out of office; and the councillors immediately after the election of aldermen shall appoint who shall be the aldermen who shall go out of office in the year one thousand eight hundred and thirty-eight, and thereafter those who shall go out of office shall always be those who have been aldermen for the longest time without re-election: provided always, that any alderman so going out of office may be forthwith re-elected, if then qualified as herein provided; provided also, that aldermen so going out of office shall not be entitled to vote in the election of a new alderman.

XXVI. That the mayor and aldermen shall, during their respective offices, continue to be members of the council of the borough, notwithstanding any thing herein-after contained as to councillors going out of office at the end of three years.

XXVII. That whenever any extraordinary vacancy shall take place in the office of alderman of any borough, the council of such borough shall, within ten days after such vacancy shall occur, on a day to be named by the mayor for such purpose, elect some other fit person to fill such vacancy, either from the councillors or from the persons qualified to be councillors; and in case any councillor shall be elected to fill the place of alderman, then the vacancy which will thereby be occasioned in the council shall be filled up at the time and in the manner herein-before directed; and every person so elected an alderman to fill an extraordinary vacancy shall hold such office until the time when the person in the room of whom he was chosen would regularly have gone out of office, and he shall then go out of office, but may be re-elected if then qualified as herein provided.

XXVIII. That no person being in holy orders, or being the regular minister of any dissenting congregation, shall be qualified to be elected to be a councillor of any such borough or an alderman of any such borough, nor shall any person be qualified to be elected or to be a councillor or an alderman of any such borough who shall not be entitled to be on the burgess list of such borough, nor unless he shall be seised or possessed of real or personal estate or both to the following amount, that is to say, in all boroughs directed by this act to be divided into three or more wards to the amount of one thousand pounds, or be rated to the relief of the poor of such borough upon the annual value of not less than thirty pounds, and in all boroughs directed to be divided into less than four wards, or which shall not be divided into wards, to the amount of five hundred pounds, or be rated to the relief of the poor of such borough upon the annual value of not less than fifteen pounds, during such time as he shall hold any office or place of profit, other than that of mayor in the gift or disposal of the council of such borough, during such time as he shall have directly or indirectly, by himself or his partner, any share or interest in any contract or employment with, by, or on behalf of such council; provided that no person shall be disqualified from being a councillor or alderman of any borough aforesaid by reason of his being a proprietor or shareholder of any company which shall contract with the council of such borough for supplying with water or insuring against fire any part of such borough.

XXIX. That every burgess of any borough who shall be enrolled on the burgess roll for the time being of such borough shall be entitled to

Mayor and aldermen to continue to be members of the council during their offices.
Future vacancies in the office of aldermen how to be filled up.

Who are not qualified to be chosen mayor or councillor.

Who shall vote in the election for councillors.

No. V.
5 & 6 W. 4,
c. 76.

Councillors to
be chosen on
the 1st Nov. in
every year.

One third part
of the council
to go out of
office annually.

Elections to be
held before
mayor and
assessors.

Mode of
voting.

Polling booths
to be provided.

vote in the election of councillors and of the auditors and assessors herein-after mentioned for such borough, and no person who shall be enrolled in such burgess roll for the time being shall have any vote or be entitled to vote in any such election.

XXX. That upon the first day of November (1) in every year burgesses so enrolled in every borough shall openly assemble and elect from the persons qualified to be councillors the councillors of such borough, or such part of them as shall be needed to supply the place of those who shall then go out of office: Provided nevertheless, that whenever any day by this act appointed for any purpose shall in any year happen on a Sunday, in every such case the business so appointed to be done shall take place on the Monday following.

XXXI. That upon the first day of November, one thousand eight hundred and thirty six, and in every succeeding year, one third part of the number appointed as aforesaid to be the whole number of councillors of every borough shall go out of office; and in the said year one thousand eight hundred and thirty-six those who shall go out of office shall be the councillors who were elected under the provisions of this act by the smallest numbers of votes in this present year, in the next year, one thousand eight hundred and thirty-seven, those who shall so go out of office shall be the councillors who were elected under the provisions of this act by the next smallest numbers of votes in this present year, the majority of the whole council always determining, when the votes for any such persons shall have been equal, who shall be the persons so to go out of office; and thereafter those who shall so go out of office shall always be the councillors who have been for the longest time in office without re-election; Provided always, that any councillor so going out of office shall be capable of being forthwith re-elected, if then qualified, as herein provided.

XXXII. That every election of councillors within any borough according to the provisions of this act shall be held before the mayor and assessors for the time being of such borough, except as herein otherwise excepted; and the voting at every such election shall commence at nine o'clock in the forenoon, and shall finally close at four o'clock in the afternoon of the same day, and shall be conducted in manner following; that is to say, every burgess entitled to vote in the election of councillors may vote for any number of persons not exceeding the number of councillors then to be chosen, by delivering to the mayor and assessors or other presiding officer as herein-after mentioned a voting paper, containing the christian names and surnames of the persons for whom he votes, with their respective places of abode and descriptions, such paper being previously signed with the name of the burgess voting, and with the name of the street, lane, or other place in which the property for which he appears to be rated on the burgess roll is situated.

XXXIII. That at every election in any borough the mayor, or he who shall appear to him expedient for taking the poll at such election may cause booths to be erected, or rooms to be hired and used as such booths, for different parts of such borough, which may be situated either in one place or in several places, and shall be so divided and allotted into compartments as to the mayor shall seem most convenient, and the mayor shall appoint a clerk to take the poll at each compartment, and shall cause to be affixed on the most conspicuous part of each of the said booths the names of the parts for which such booth is respectively allotted; and no person shall be admitted to vote at any such election except at the booth allotted for the part wherein the house, warehouse, counting-house, or shop occupied by him as described on the burgess roll may be; but in case no booth shall happen to be provided for any particular part as aforesaid the votes of the persons voting

respect of property situate in any part so omitted may be taken at any of the said booths; and public notice of the situation, division, and allotments of the different booths shall be given two days before the commencement of the poll by the mayor; and in case the booths shall be situated in different places the mayor may appoint a deputy to reside at each place: provided also, that no election shall be holden under this act in any borough in any church, chapel, or other place or place of worship.

No. V.
5 & 6 W. 4,
c. 76.

XXIV. That no inquiry shall be permitted at any election as to the right of any person to vote as a burgess in any borough, except only as follows; (that is to say,) that the mayor or other presiding officer shall be required by any two burgesses entitled to vote in the same borough, to any voter at the time of his delivering in his voting paper, and afterwards, the following questions, or any of them, and no other:

No inquiry of the voter except as to his identity, and whether he has voted before at the same election.

1. Are you the person whose name is signed as *A. B.* to the voting paper now delivered in by you?
2. Are you the person whose name appears as *A. B.* on the burgess roll now in force for this borough, being registered therein as rated for property described to be situate in _____?

Forms of questions as to these points.

[Here specify the street, &c., as described in the burgess roll.]

3. Have you already voted at the present election?
- If no person required to answer any of the said questions shall be admitted or qualified to vote until he shall have answered the same; and if any person shall wilfully make a false answer to any of the questions aforesaid he shall be deemed guilty of a misdemeanor, and may be indicted and punished accordingly.

Result of election how to be declared.

XXV. That the mayor and assessors shall examine the voting papers so delivered as aforesaid, for the purpose of ascertaining which of the several persons voted for are elected; and so many of such persons, being equal to the number of persons then to be chosen, as shall be the greatest number of votes, shall be deemed to be elected; and in case of an equality in the number of votes for any two or more persons, the mayor and assessors, or any two of them, shall name from amongst those persons for whom the number of votes shall be equal so many as shall be necessary to complete the requisite number of persons to be chosen; and the mayor shall cause the voting papers to be kept in the office of the town clerk during six calendar months at the least after every such election; and the town clerk shall permit any burgess to inspect the voting papers of any year, on payment of one shilling for every search; and the mayor shall publish a list of the names of the persons so elected not later than two of the clock in the afternoon of the day next but one following the day of such election, unless such day be Sunday, and then on the Monday following.

XXVI. That if the mayor of any borough shall at the time when it shall be necessary to execute the powers and duties herein provided in respect to elections, be dead, absent, or otherwise incapable of acting, the council of such borough shall forthwith elect one of the members to execute all such powers and duties in the place of the mayor; provided that in the first election of councillors and of auditors and assessors, as herein-after provided, the mayor alone shall act with the powers and duties herein-before enacted concerning the mayor and assessors jointly in such elections.

An alderman to be chosen to preside at election in case of the death or inability of the mayor.

XXVII. That on the first day of March in the year one thousand eight hundred and thirty-six, and in every succeeding year, the burgesses of every borough shall elect from the persons qualified to be councillors by a majority of votes, two burgesses, who shall be and be called auditors of such borough, and two burgesses, who shall be and be called assessors of such borough; and every such auditor and assessor shall continue in office until the first day of March in the year following his election; and the election of such auditors and assessors respectively shall be in form and manner herein-before provided for the election of councillors; provided nevertheless, that in every such

Election of auditors and assessors.

No. V.
5 & 6 W. 4,
c. 76.

Existing
mayors and
councillors to
go out of office
on election of
councillors
under this act.

Where bo-
roughs are to
be divided into
wards, the
bounds of the
wards to be
determined by
the barristers
appointed to
revise the lists.

Number of
councillors for
each ward to
be assigned by
the barristers according to certain rules.

election of auditors or assessors no burgess shall vote for more than one person to be an auditor or assessor; provided also, that no burgess shall be eligible to be or be elected such auditor or assessor as aforesaid who shall be of the council, or the town clerk or treasurer of such borough.

XXXVIII. That after the declaration of the first election of the councillors under the provisions of this act in any borough, the mayor, aldermen, and common councilmen, and all other members of the common council or governing body of the body corporate named in conjunction with such borough in the said Schedules (A.) and (B.), whatever name or style they may be known or called, then in office shall go out of office, and their whole powers and duties shall cease. Provided nevertheless, that any of the persons so going out of office shall be eligible to be elected and appointed under the provisions of this act: Provided also, that such persons as are justices of the peace in any borough at the time of passing this act shall continue to hold and exercise all the powers which at the time of passing this act they have as justices of the peace, until the first day of May in the year one thousand eight hundred and thirty-six, and no longer: Provided also, that in every borough in which, by statute, charter, bye-law, or custom, any election is appointed to be holden between the day of the passing of this act and the first day of May next, both inclusive, no such election shall be holden, but every person holding office in any borough on the day of the passing of this act shall continue to hold such office, and have all the powers, and be subject to all the duties, and be entitled to the same salary and fees of such office, as he would have had and be if elected to such office between the day of the passing of this act and the said first day of May until the time provided by this act for him to go out of office; any statute, charter, bye-law, or custom notwithstanding.

XXXIX. And whereas it is expedient that certain boroughs of large population should be divided into wards before any election of councillors for such boroughs should take place; be it therefore enacted, That every borough in the said Schedule (A.) shall be divided into a number of wards mentioned in such schedule in conjunction with the name of such borough; and that it shall be lawful for the barristers appointed in pursuance of the provisions herein-before contained to revise the burgess and councillors lists of any borough in the present year, and he or they is and are hereby required within the space of six weeks next after the passing of this act to determine and set out the extent, limits, and boundary lines of such wards, and what portion of such borough shall be included therein respectively; and the copy of the particulars of such division shall be forthwith transmitted to one of his Majesty's principal secretaries of state, and, if his Majesty by advice of his privy council shall approve such determination, shall be published in the *London Gazette*, and another copy of such particulars shall be delivered to the town clerk of such borough, to be by him safely kept among the public documents of such borough; and every such borough shall, after such publication as aforesaid, be deemed to be divided into such wards as shall be so determined and set out as aforesaid, and such division shall continue and be in force until the same shall be altered by authority of parliament: Provided always, that if his Majesty, by advice of his privy council shall not approve such determination, such publication as aforesaid shall nevertheless be made, and such division be in force for the purpose of any election under the provisions of this act and until such time as his Majesty shall by advice of his privy council upon further information and report from such barristers, definitively approve the division of such borough into wards in manner herebefore mentioned.

XL. That the said barrister or barristers shall, after the division of the borough into such number of wards as is directed by this act, apportion among the several wards of such borough the number of councillors mentioned in conjunction with the name of such borough in the

aid Schedule (A.); and in assigning the number of councillors to each ward the said barrister or barristers shall, as far as in his or their judgment he or they may deem it to be practicable, have regard as well to the number of persons rated to the relief of the poor in such ward as to the aggregate amount of the sums at which all the said persons shall be rated: Provided always, that the number of councillors assigned to each ward shall be a number divisible by three; and a copy of the particulars of the number of councillors so assigned to the several wards of the borough shall be forthwith transmitted to one of his Majesty's principal secretaries of state, and, subject as aforesaid to the approval of his Majesty by the advice of his privy council, shall be published in the *London Gazette*, and another copy of such particulars shall be delivered to the town clerk of the borough, to be by him safely kept among the public documents of such borough; and the number of councillors so assigned to each ward of such borough shall, after such publication as aforesaid, be the number to be elected in such ward, and shall so continue until the same shall be altered by authority of parliament: Provided always, that if his Majesty, by the advice of his privy council, shall not approve the number of councillors so assigned to each ward, such publication shall nevertheless be made, and the number of councillors so assigned to each ward of such borough by such barrister shall be the number to be elected in such ward at any election of councillors under this act until such time as his Majesty shall by advice of his privy council, upon further information and report from such barrister, definitively approve such assignment in manner herein-before mentioned.

XLII. And whereas it may be convenient in divers boroughs to adhere to the division of the same into wards to the ancient division thereof into parishes or into districts under any local act, or to adapt such division to local circumstances, and such division so made might render difficult such apportionment of councillors as is herein-before directed; be it therefore enacted, That in every such case the said barrister or barristers shall be empowered, at his or their discretion, subject as aforesaid to the approval of his Majesty by the advice of his privy council, to divide any borough in conjunction with the name of which, in the said Schedule (A.), shall be mentioned any number of wards rather than two, into any number of wards more or less by one than the number of wards mentioned in conjunction with the name of such borough in the said schedule.

XLIII. That the said barrister or barristers shall have power to require any overseer, or person having the custody of any book containing any rate made for the relief of the poor, in any parish wholly or in part within any borough to be divided into wards, to produce such book before and allow the same to be inspected by the said barrister or barristers; and the said barrister or barristers shall have power to administer an oath to the overseers and to all other persons, who are hereby required to answer upon oath all such questions as the said barrister or barristers may put to them or any of them, touching any matter which the said barrister or barristers may deem necessary for enabling them to execute the duties by this act imposed upon them.

XLIII. That in every case in which there shall be a division into wards of any borough, the burgesses of every such ward, and none others, shall on the day fixed for the first election of councillors separately elect from the persons qualified to be councillors the whole number of councillors assigned to such ward respectively, and on the first day of November in any subsequent year shall separately elect from the persons qualified to be councillors one third part of the whole number of councillors assigned to such ward, and on the first day of March next after the first election of councillors in such ward, and in every subsequent year, shall separately elect from the persons qualified to be councillors two assessors for such ward; and every such ward election first after such division into wards of any such borough shall be held before the mayor, or the person whom the mayor for the time being shall

No. V.
5 & 6 W. 4,
c. 76.

Apportionment
of councillors
for each ward
in which the
ancient division
is adhered to.

Power to
examine rate
books.

Councillors
and assessors
to be elected
in wards by the
burgesses of
such wards.

No. V.
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c. 76.

appoint in that behalf, and in every succeeding year shall be before the alderman whom the councillors chosen in such ward shall yearly appoint in that behalf and before the two assessors of such ward and the assessors who shall hold the court for revising the burgess list with the mayor shall be the assessors of the mayor's ward, and all votings and other proceedings in all other respects at such ward elections shall be conducted in the same manner as at elections of councillors or assessors respectively by the burgesses of the whole borough and the alderman and assessors of each ward shall have the same power in regard to elections in their ward as the mayor and assessors for the whole borough if not divided into wards; and every person so elected councillor or assessor in such ward shall hold his office for the same time that he would have held it if he had been elected by the burgesses of the whole borough and if the number elected in such ward had been the whole number for the borough.

Burgesses to vote in the ward in which their property is situated.

XLIV. That every burgess of any borough shall be entitled to vote in the election of the councillors and assessors to be chosen within the ward in which the property of such burgess for which he appears to be rated on the burgess roll for the time being of such borough shall appear to be situated, and not otherwise; and if any burgess shall be rated in respect of distinct premises in two or more wards, then he shall be entitled to be enrolled and to vote in such one of the said wards as he shall select, but not in more than one.

Lists of the burgesses in each ward to be made out yearly.

XLV. That for the purpose of better ascertaining who are the burgesses of any such ward the burgess roll of every borough so divided into wards shall thenceforward be made out, by or under the direction of the town clerk, in alphabetical lists of the burgesses in each ward, to be called "ward lists."

Manner of proceeding if any person is elected a councillor in more than one ward.

XLVI. That if at any election of councillors or assessors for any borough any person shall be elected a councillor or assessor in more than one of the wards of such borough, he shall within three days after notice thereof choose, or in his default the mayor shall declare, for which one of the said wards such councillor or assessor shall serve, and such person shall thereupon be held to be elected in that ward only which he shall so choose, or which the mayor shall so declare.

Occasional vacancies of councillor, auditor, or assessor to be filled up by fresh election.

XLVII. That if an extraordinary vacancy shall be occasioned in the office of councillor, auditor, or assessor for any borough, the burgesses entitled to vote shall, on a day to be fixed by the mayor of such borough, or in the case of a councillor or assessor, where the borough shall have been divided into wards, by the alderman of the ward in which the vacancy has happened, (such day not to be later than ten days after such vacancy,) elect from the persons qualified to be councillors another burgess to supply such vacancy; and such election shall be held, and the voting and other proceedings, in case of a contest, shall be conducted in the same manner and subject to the same provisions as are herein-before enacted with respect to the election of councillors as aforesaid; and every person so elected shall hold such office until the time at which the person in room of whom he was chosen would regularly have gone out of office, and he shall then go out of office, but shall be capable of immediate re-election if then qualified as herein provided: Provided always, that after the full number to be regularly elected of the councillors in any year shall have declared their acceptance of office no new election of councillors shall be made by reason of such extraordinary vacancy, unless the number of councillors remaining after such vacancy shall not exceed two thirds of the whole number of the council of such borough.

Penalties on mayor, overseers, &c. neglecting to comply with provisions of this act.

XLVIII. That if any mayor, alderman, or assessor of any borough who shall be in office at the time herein appointed for the revision by them of the burgess list under this act, or for any election of councillors, assessors, or auditors which he is required to conduct or declare shall neglect or refuse to revise such burgess list, or to conduct or declare such election as aforesaid, every such mayor, alderman, and

essor shall for every such offence forfeit and pay the sum of one hundred pounds; and if any overseer of any parish wholly or in part within any borough shall neglect or refuse to make out, sign, and deliver such list as aforesaid, or if the town clerk of any borough shall neglect or refuse to receive, print, and publish such lists as aforesaid, or if any such overseer or town clerk shall refuse to allow any such list to be perused by any person having right thereunto, every such overseer and town clerk respectively for every such offence shall forfeit and pay the sum of fifty pounds; and the said penalties hereby in such cases imposed shall be recovered, with full costs of suit, by any person who will sue for the same within three calendar months after the commission of such offence, by action of debt or on the case in any of his Majesty's superior courts of record; and the money so to be recovered shall, after payment of the costs and expences attending the recovery thereof, be paid and apportioned as follows; (that is to say) one moiety thereof to the person so suing, and the other moiety thereof to the treasurer to be appointed by virtue of this act, to be by him applied in aid of the borough fund herein-after mentioned.

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XLIX. That on the ninth day of November (1) in every year the Council to elect the mayor of the borough shall elect out of the aldermen or councillors of the borough a fit person to be the mayor of such borough, who shall continue in his office for one whole year; and in case a vacancy shall be occasioned in the office of mayor of the borough during such year by reason of any person who shall have been elected to such office not accepting the same, or by reason of his dying or ceasing to hold the said office, the council of the borough shall within ten days after such vacancy elect out of the aldermen or councillors of the said borough another fit person to be the mayor thereof for the remainder of the then current year.

L. That no person elected a mayor, alderman, or councillor, or auditor or assessor, for any borough, shall be capable of acting as such, except in administering the declaration herein-after contained, until he shall have made and subscribed before any two or more such aldermen or councillors (who are hereby respectively authorized and required to administer the same to each other) a declaration in the words or to the effect following; (that is to say)

'I A. B., having been elected mayor [or alderman, councillor, auditor, or assessor] for the borough of _____ do hereby declare, that I take the said office upon myself, and will duly and faithfully fulfil the duties thereof according to the best of my judgment and ability; [and in the case of the party being qualified by estate say, and I do hereby declare that I am seised or possessed of real or personal estate, or both, [as the case may be,] to the amount of one thousand pounds or five hundred pounds, as the case may require, over and above what will satisfy all my debts.]'

And that every alderman who shall have made and subscribed the foregoing declaration in respect of estate shall once in every period of three years, if required in writing so to do by any two members of the council, make and subscribe a declaration that he is qualified to the same amount in real or personal estate, or both, as the case may then be, as the amount mentioned in the declaration originally made and subscribed by him: Provided always, that nothing in this act contained shall be construed to dispense with the obligation of any person to make and subscribe the declaration provided and enjoined by an act made in the ninth year of his late Majesty George the Fourth, intituled *An Act for repealing so much of several acts as imposes the necessity of receiving the Sacrament of the Lord's Supper as a Qualification for certain Offices and Employments*.

LI. That every person duly qualified who shall be elected to the office of Every burgher alderman, councillor, auditor, or assessor, and every councillor who elected to the

(1) The first mayor under the act is to be chosen on the 1st January, 1836.

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office of alderman, councillor, auditor, or assessor, and every councillor elected to the office of mayor shall accept the office or pay a fine to the borough fund.

Exemptions.

Any mayor, alderman, or councillor, if he shall be declared bankrupt or insolvent, or absent himself from the borough shall lose his office.

Penalty on persons not qualified, &c. acting as mayor, alderman, or councillor.

shall be elected to the office of mayor, for any borough, shall accept such office to which he shall have been elected, or shall in lieu thereof pay the mayor, alderman, and burgesses of such borough such fine not exceeding fifty pounds in case of aldermen, councillors, auditors, or assessors, and such fine not exceeding one hundred pounds in case of mayor as the council of such borough by a bye-law to be made as herein-after provided shall declare in that behalf; and such fine if not duly paid shall be levied by the warrant of any justice having jurisdiction within the borough, who is hereby required on the application of the council to issue the same, by distress and sale of the goods and chattels of such person so refusing to accept office, with the reasonable charges of such distress; and every such person so elected shall accept such office by making and subscribing the declaration herein-before mentioned within five days after notice of his election, otherwise such person shall be liable to pay the said fine as for his non-acceptance of such office, and such office shall thereupon be deemed to be vacant and shall be filled up by a fresh election to be made in the manner herein-before mentioned: Provided always, that no person disabled by lunacy or imbecility of mind, or by deafness, blindness, or other permanent infirmity of body, shall be liable to such fine as aforesaid: Provided also, that every person so elected to any such office who shall be above the age of sixty-five years, or who shall have already served such office respectively or paid the fine for not accepting such office respectively, within five years from the day on which he shall be so re-elected, shall be exempted from accepting or serving the same office if he shall claim such exemption within five days after notice of his election: Provided always that nothing in this act contained shall extend to compel the acceptance of any office or duty whatever in any borough by any military, naval, or marine officer in his Majesty's service on full pay, or by any other person employed and residing within any of his Majesty's dockyards, victualling establishments, arsenals, or barracks.

LII. Provided always, That if any person holding the office of mayor, alderman, or councillor for any borough shall be declared bankrupt, or shall apply to take the benefit of any act for the relief of insolvent debtors, or shall compound by deed with his creditors, or, being mayor, shall be absent for more than two calendar months, or, being an alderman or councillor, for more than six months, at one and the same time, (unless in case of illness), from the borough of which he shall be mayor, alderman, or councillor, then and in every such case such person shall thereupon immediately become disqualified and shall cease to hold the office of such mayor, alderman, or councillor as aforesaid, and in the case of such absence shall be liable to the same fine, to be recovered in the same manner, as if he had refused to accept the said office, and the council thereupon shall forthwith declare the said office to be void, and shall signify the same by notice in writing under the hands of three or more of them, countersigned by the town clerk, to be affixed in some public place within the borough, and the said office shall thereupon become void; but every person so becoming disqualified and ceasing to hold such office on account of his being declared a bankrupt, or of his applying to take the benefit of any act for the relief of insolvent debtors, or having compounded with his creditors as aforesaid, shall on obtaining his certificate or on payment of his debts in full, be capable (if otherwise qualified) of being re-elected to such office, and every person becoming disqualified to hold such office, on account of absence as aforesaid, shall on his return to such borough be capable of being re-elected to such office, provided he shall then be otherwise qualified.

LIII. That if any person shall act as mayor, alderman, or councillor or auditor or assessor, for any borough, without having made the declaration herein-before required in that behalf, or without being duly qualified at the time of making such declaration, or after he shall cease to be qualified according to the provisions of this act, or after he shall have

come disqualified to hold any such office, he shall for every such offence forfeit the sum of fifty pounds, such sum to be recovered, with all costs of suit, by any person who will sue for the same within three calendar months after the commission of such office, by action of debt or on the case in any of his Majesty's superior courts of record; and every person so sued by reason of not being so qualified in respect of rate shall prove that he was at the time of so acting qualified as aforesaid, or otherwise shall pay the said penalty, without any further evidence being given on the part of the plaintiff than that such person has acted as the mayor, or as alderman, councillor, auditor, or assessor (as the case may be) of such borough: Provided always, that it shall be lawful for any defendant, by judge's order to be obtained within fourteen days after he shall have been served with process in any such action, to require the plaintiff to give security for costs; and in such case all further proceedings in the said cause shall be stayed until the plaintiff shall give security to the satisfaction of the proper officer of the court in the costs of such action in case a verdict shall pass for the defendant, or the plaintiff shall become non-suit, or discontinue such action, or if upon demurrer or otherwise judgment shall be given against the plaintiff; and the defendant shall in either of such cases recover his full costs as between attorney and client: Provided also, that no such action shall be brought except by a burgess of such borough, nor unless the burgess bringing the same shall, within fourteen days after the commission of the offence, have served a notice in writing personally upon the party committing such offence of his intention to bring such action; and in case the plaintiff in any such action shall obtain a verdict, the money so to be recovered shall, after payment of the costs and expences attending the recovery thereof, be paid and apportioned as follows; (that is to say,) one moiety thereof to the person so suing, and the other moiety thereof to the treasurer to be appointed by virtue of this act, to be by him applied in aid of the borough fund: Provided always, that all acts and proceedings of any person in possession of the office of mayor, alderman, councillor, auditor, or assessor, and acting as a mayor, alderman, councillor, auditor, or assessor, shall, notwithstanding such disqualification or want of qualification, be as valid and effectual as if such person had been duly qualified.

Proviso.

LIV. That if any person who shall have or claim to have any right to vote in any election of mayor, or of a councillor, auditor, or assessor of any borough, shall, after the passing of this act, ask or take any money or other reward by way of gift, loan, or other device, or agree or contract for any money, gift, office, employment, or other reward whatsoever, to give or forbear to give his vote in any such election, or if any person, by himself or any person employed by him, shall, by any gift or reward, or by any promise, agreement, or security for any gift or reward, corrupt or procure, or offer to corrupt or procure, any person to give or forbear to give his vote in any such election, such person so offending in any of the cases aforesaid shall for every such offence forfeit the sum of fifty pounds of lawful money of Great Britain, to be recovered, with full costs of suit, by any one who shall sue for the same, by action of debt, bill, plaint, or information in any of his Majesty's courts of Record at Westminster; and any person offending in any of the cases aforesaid, being lawfully convicted thereof, shall for ever be disabled to vote in any election in such borough, or in any municipal or parliamentary election whatever in any part of the United Kingdom, and also shall for ever be disabled to hold, exercise, or enjoy any office or franchise to which he then shall or at any time afterwards may be entitled as a burgess of such borough, as if such person was naturally dead.

Persons convicted of bribery disqualified from voting at any election in the borough.

LV. That if any person offending in any of the cases aforesaid shall, within the space of twelve months next after such election as aforesaid, discover any other person offending in any of the cases aforesaid, so that such other person be thereon convicted, such person so discovering, and not having been before that time convicted of any such offence, shall be in-

Persons offending in any of the cases aforesaid discovering others so offending, to be discharged from all penalties.

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No person
liable to inca-
pacity, penalty,
&c. unless
prosecuted within two years.

The mayor,
to be a justice
of the peace
for the borough
and returning
officer at elec-
tions of mem-
bers to serve
in parliament.

Power to
council to
appoint town
clerk, trea-
surer, and other
officers;

and to take
security for
due discharge
of their of-
ficial duties.

Salaries.

Treasurer to
pay no money
but by order of
council.

dennified and discharged from all penalties and disabilities which he shall then have incurred by any such offence.

LVI. Provided always, That no person shall be made liable to any incapacity, disability, forfeiture, or penalty by this act imposed in any of the cases aforesaid, unless prosecution be commenced within two years after such incapacity, disability, forfeiture, or penalty shall be incurred, any thing herein contained to the contrary notwithstanding.

LVII. That the mayor for the time being of every borough shall be justice of the peace of and for such borough, and shall continue to be such justice of the peace during the next succeeding year after he shall cease to be mayor, unless disqualified as aforesaid; and such mayor shall, during the time of his mayoralty, have precedence in all places within the borough, and in boroughs which return a member or members to serve in parliament, other than the town of Berwick-upon-Tweed and other than cities and towns which are counties of themselves, shall be the returning officer at all such elections; and in case the mayor shall, at the time when he shall be required to perform the duties of such returning officer, be dead, absent, or otherwise incapable of acting or in case there shall be no mayor, the council of such borough shall forthwith elect one of the aldermen to be the returning officer for such borough in the place of the mayor being so dead, absent or otherwise incapable: Provided always, that in every case where there shall be more than one mayor within the boundaries of any borough as the same are or shall at any future time be settled in so far as respects the election of members to serve in parliament the mayor of that borough to which the writ of election shall be directed shall be the returning officer.

LVIII. That the council of every borough, on the ninth day of November in this present year, shall appoint a fit person, not being a member of the council, to be the town clerk of such borough, who shall hold his office during pleasure: and in any borough may be an attorney of one of his Majesty's superior courts at Westminster, and law, statute, charter, or usage to the contrary notwithstanding; and the council of every borough shall in every year appoint another fit person, not being a member of the council, to be the treasurer of the borough, and also such other officers as have been usually appointed in such borough, or as they shall think necessary for enabling them to carry into execution the various powers and duties vested in them by virtue of this act, and may from time to time discontinue the appointment of such officers as shall appear to them not necessary to be re-appointed; and shall take such security for the due execution of his office by any such town clerk, treasurer, or other officer, as the said council shall think proper; and shall order to be paid to the mayor and to the town clerk and treasurer, and to every such other officer to be employed as aforesaid, such salary or allowance as the said council shall think reasonable; and in case of a vacancy in any such office as aforesaid by death, resignation, removal, or otherwise, the council of such borough may appoint another fit person in the place of the person so making such vacancy; provided that the town clerk and treasurer shall not be the same person.

LIX. That the treasurer of any borough shall pay no money on account of the mayor, aldermen, and burgesses of such borough, save only in such case as is provided by this act, or upon the order in writing of the council, signed by three or more members of the council, and countersigned by the town clerk of such borough, or by order of the court of sessions of the peace for the borough, or of a justice of the peace acting in and for the borough in the discharge of his judicial duty, in such case as is provided by this act, or in such case as a court of sessions of the peace for any county, or a justice of the peace acting in and for a county in the discharge of his judicial duty, may make an order for the payment of money on the treasurer of such county, or for the pay

ment of the salaries granted to any recorder or police magistrate as herein-after provided.

LX. That every town clerk, treasurer, or other officer appointed by the council as aforesaid shall, at such times during the continuance of his office, or within three months after the expiration of his office, and in such manner as the said council shall direct, deliver to the council, or to such person as they shall authorize for that purpose, a true account in writing of all matters committed to his charge by virtue of this act, and also of all monies which shall have been by him received by virtue or for the purposes of this act, and how much thereof shall have been paid and disbursed, and for what purposes, together with proper vouchers for such payments, and also a list of the names of all such persons as shall not have paid the monies due from them for the purposes of this act, and of the amount due from each of them; and every such officer shall pay all such monies as shall remain due from him to the treasurer for the time being, or to such person as the said council shall authorize to receive the same; and if any such officer shall refuse or wilfully neglect to deliver such account, or the vouchers relating to the same, or such list as aforesaid, or to make payment as aforesaid, or shall refuse or wilfully neglect to deliver to the said council, or to such person as they shall authorize, within three days after being thereunto required by notice in writing under the hands of any three or more of the said council, to be given to or left at the last place of abode of such officer, all books, papers, and writings in his custody or power relating to the execution of this act, or to give satisfaction to the said council, or to such other person as aforesaid, respecting the same, then and in every such case, upon complaint made on behalf of the said council, by such person as they shall authorize for that purpose, of any such refusal or wilful neglect as aforesaid, to any justice of the peace for the county or other jurisdiction wherein such officer so refusing or neglecting shall be or reside, such justice is hereby authorized and required to issue a warrant under his hand and seal for bringing such officer before any two justices of the peace for such county or jurisdiction; and upon the said officer appearing, or not being found, it shall be lawful for such justices to hear and determine the matter in a summary way; and if it shall appear to such justices that any monies remain due from such officer, such justices may and they are hereby authorized and required, upon nonpayment thereof, by warrant under their hands and seals, to cause such monies to be levied by distress and sale of the goods of such officer; and if sufficient goods shall not be found to satisfy the said monies and the charges of the distress, or if it shall appear to such justices that such officer has refused or wilfully neglected to deliver such account, or the vouchers relating thereto, or such list as aforesaid, or that any books, papers, or writings relating to the execution of this act remain in the hands or in the custody or power of such officer, and that he has refused or wilfully neglected to deliver the same, or to give satisfaction respecting the same as aforesaid, then and in every such case such justices shall and they are hereby required to commit such offender to the common gaol or house of correction for the county or jurisdiction where such offender shall be or reside, there to remain without bail until he shall have paid such monies as aforesaid, or shall have compounded with the said council for such monies, and shall have paid such composition in such manner as they shall appoint, (which composition the said council are hereby empowered to make and receive,) or until he shall have delivered a true account as aforesaid, together with such vouchers and lists as aforesaid, or until he shall have delivered up such books, papers, and writings, or have given satisfaction in respect thereof, to the said council, or to such other person as aforesaid, as the case may be: Provided always, that no person so committed shall be detained in prison for want of sufficient distress only for a longer space of time than three calendar months: Provided also, that nothing in this act contained shall

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Officers to
account, &c.
according to
the orders of
the council.

Summary
remedy against
officers for
not account-
ing, &c.

Proviso.

Remedy by
action.

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Councils of
cities and towns
which are
counties to
name a sheriff.

prevent or abridge any remedy by action against any such officer offending as aforesaid, or against any surety for any such officer, but such officer shall not be sued by action and also proceeded against in summary manner by virtue of this act for the same cause.

LXI. That in the city of Oxford, in the town of Berwick-upon-Tweed, and in the counties of the cities of Bristol, Canterbury, Chester, Coventry, Exeter, Gloucester, Lichfield, Lincoln, Norwich, Worcester, and York, and in the counties of the towns of Caermarthen, Haverfordwest, Kingston-upon-Hull, Newcastle-upon-Tyne, Nottingham, Pool, and Southampton, the council shall on the first day of November in every year appoint a fit person to execute the office of sheriff, with the like duties and powers as the sheriff or the person filling the office of sheriff in the said town and counties respectively would have had if this act had not passed; and every person who, at the time of the passing of this act, shall hold the office or execute the duties of sheriff in the said town and counties respectively shall continue to hold and execute the same until the first appointment of a sheriff therein under the provisions of this act, and no longer.

In certain boroughs, council to appoint a coroner.

LXII. That the council of every borough in which a separate court of quarter sessions of the peace shall be holden, as is herein-after provided, shall, within ten days next after the grant of the said court shall have been signified to the council of such borough, appoint a fit person not being an alderman or councillor, to be coroner of such borough as long as he shall well behave himself in his office of coroner, and shall fill up every vacancy of the office of coroner of the borough, by death, resignation, or removal, within ten days next after such vacancy shall have occurred, and none thereafter shall take any inquisition which belongs to the office of coroner within such borough save only the coroner so from time to time to be appointed; and every such coroner, for every inquisition which he shall duly take within such borough, shall be entitled to have the sum of twenty shillings, and also the sum of nine pence for every mile exceeding two miles which he shall be compelled to travel from his usual place of abode to take such inquisition, to be paid by the treasurer out of the borough fund of such borough, by order of the court of quarter sessions for such borough.

Coroners to make returns to secretary of state.

LXIII. That on or before the first day of February in every year after the passing of this act every coroner appointed in any borough shall make and transmit to one of his Majesty's principal secretaries of state a return in writing, according to such form as the said secretary of state from time to time shall direct, of all the cases in which he may have been called upon to hold an inquest touching the cause of death of any person during the year ending on the thirty-first day of December immediately preceeding.

County coroners to act in other boroughs.

LXIV. That in every borough in and for which no separate court of quarter sessions of the peace shall be holden no person from and after the end of this present year shall take any inquisition which belongs to the office of coroner within such borough, save only the coroner for the county or district in which such borough is situated; and the coroner of such county or district, for every inquisition which he shall duly take within any place or precinct within any such borough, shall be entitled to have such rateable fees and salary as would be allowed and due to him, and to be allowed and paid in like manner, as for any other inquisition taken by him within such county: Provided always, that nothing in this act contained shall extend or be construed to annul, diminish or affect the authority of the lord high admiral, or of the commissioners for executing the office of lord high admiral of the United Kingdom for the time being, or of the judge of the high court of admiralty of England as the lieutenant of the lord high admiral in the said court, to appoint coroners to act within the jurisdiction of the admiralty in the several ports and havens and on the sea coast of England, and to take inquisitions touching deaths happening within the said jurisdiction, as hath heretofore been done.

LIV. That the council elected under this act in any borough shall have power to remove from his office every bailiff, treasurer, or chamberlain, and every other ministerial or executive officer of such borough and body corporate who shall be in office at the time of the first election of councillors under this act; and every such bailiff, treasurer, or chamberlain, and every other ministerial or executive officer in such borough, shall continue to act in the same capacity as heretofore, and to execute the same duties heretofore belonging to his office, and be entitled to have the same salaries, fees, and emoluments as he would have had if this act had not passed, until he shall be removed from his office, and no officer, unless he shall be re-appointed according to the provisions of this act; and every officer who shall be in possession or receipt of any monies, goods, valuable securities, books, and papers belonging to or concerning the body corporate whose officer he is shall deliver up and account for the same to the council of such body corporate appointed under this act; and the council shall have the same remedy against such officer to recover the same as is herein-before provided in the case of officers appointed by such council; Provided always, that all the charters, deeds, muniments, and records of every borough, or relating to the property thereof shall be kept in such place as the council from time to time shall direct, and the town clerk for the time being shall have the charge and custody of and be responsible for the same.

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Council empowered to remove certain officers.

Such officers to continue until removed.

LXVI. That every officer of any borough or county who shall be in any office of profit at the time of the passing of this act, whose office shall be abolished, or who shall be removed from his office under the provisions of this act, or who shall not be re-appointed as aforesaid, shall be entitled to have an adequate compensation, to be assessed by the council, and paid out of the borough fund, for the salary, fees, and emoluments of the office which he shall so cease to hold, regard being had to the manner of his appointment to the said office, and his term or interest therein, and all other circumstances of the case; and every person entitled to such compensation as aforesaid shall deliver to the town clerk, or in case such person shall himself be town clerk then to the treasurer of the borough, a statement under the hand of such person setting forth the amount received by him or his predecessors in every year during the period of five years next before the passing of this act on account of the salary, fees, emoluments, profits, and perquisites in respect whereof he shall claim such compensation, distinguishing the office, place, situation, employment, or appointment in respect whereof the same shall have been received, and containing a declaration that the same is a true statement according to the best of the knowledge, information, and belief of such person, and also setting forth the sum claimed by him as such compensation; and the town clerk or treasurer, as the case shall be, shall lay such statement before the council, who shall take the same into consideration, and determine thereon; and immediately upon such determination being made the person preferring such claim, if he shall not himself be the town clerk, shall be informed thereof by notice in writing under the hand of the town clerk; and in case such claim shall be admitted in part and disallowed in part, such notice shall specify the particulars in which the same shall have been admitted and disallowed respectively; and in case the person preferring such claim shall think himself aggrieved by the determination of the council thereon, or in case one third of the members of the council shall subscribe a protest against the amount of compensation allowed by the determination of the council as excessive, it shall be lawful for the person preferring such claim, or any member of the council who shall subscribe such protest, to appeal to the lords commissioners of his Majesty's treasury, who shall thereupon make such order as to them shall seem just; and such order, signed by three or more of such lords commissioners, shall be binding on all parties: Provided always, That if the council shall not determine on such claim within six calendar months after the aforesaid statement shall be delivered to the town clerk

Officers to receive compensation on removal;

to deliver statement of claims.

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or treasurer, as the case shall be, such claim shall be considered admitted: Provided also, That it shall not be lawful for any member of the council to subscribe such protest as aforesaid except within a period of six calendar months: Provided also, That the person preferring such claim, if any member of the council shall so require, upon receiving notice in writing signed by the town clerk, unless such person shall himself be town clerk, in which case no such notice shall be required, shall from time to time attend at any meeting or adjourned meeting of the council for the investigation of such claim, and then and there, upon his oath or solemn affirmation, to be taken or made before the mayor (who is hereby authorized to administer the same,) shall answer all such questions as shall be asked by any member of the council touching the matters set forth in the statement subscribed by such person as aforesaid, and produce all books, papers, and writings in his possession, custody, or power relating thereto: Provided also, That every such officer who shall be continued in or re-appointed to such office under the provisions of this act, and who shall be subsequently removed from such office for any cause other than such misconduct as would warrant removal from any office held during good behaviour, shall be entitled to compensation in like manner as if he had been forthwith removed under the provisions of this act, and had not been continued in or re-appointed to such office.

Compensation
to be secured
by bond under
common seal.

LXVII. That the sum payable to any person as such compensation as aforesaid shall be secured to such person by bond or obligation under the common seal of the borough out of whose funds the same shall be payable, in a sufficient penalty, conditioned for the payment to such person, his executors or administrators or assigns, of such sum, with all arrears thereof (if any) accrued due before the date of such bond; and such bond or obligation shall be prepared and executed at the expense of the borough fund, and delivered to the person entitled to such compensation as soon as conveniently may be after the amount thereof shall have been admitted as aforesaid by the council of the borough; or shall have been determined, in the event of such appeal as aforesaid, by the order of the said lords commissioners.

Reservation of
certain pen-
sions and al-
lowances.

LXVIII. That all pensions and allowances granted on or before the fifth day of June in this present year, by the corporate body named in the said schedules (A.) and (B.) in conjunction with any borough, to any retired officer or servant, or to the widow or child of any officer or servant, and all stipends and allowances which during seven years next before the said fifth day of June have been usually paid and granted to the minister or late minister of any church or chapel, or to the master or usher of any school, or to the governor or master of any hospital within such borough, and all charitable allowances which have been usually paid as aforesaid to the inmates of any almshouses by such corporate body, shall be secured, as soon as conveniently may be after the passing of this act, to every person entitled or accustomed to have and receive the same, by bond or obligation under the common seal of the borough out of whose funds the same shall be payable, in a sufficient penalty conditioned for the payment to such person, his executors and administrators, of such pension, stipend, or allowance, with all arrears thereof if any, accrued due before the date of such bond; and such bond or obligation shall be prepared and executed at the expense of the borough fund.

All acts of the
council to be
decided by a
majority of
councillors pre-
sent; one third
part of the
whole number
to be a quorum.

LXIX. That all acts whatsoever authorized or required by virtue of this act to be done by the council of such borough, and all questions of adjournment or others that may come before such council, may be done and decided by the majority of the members of the council who shall be present at any meeting held in pursuance of this act, the whole number present at such meeting not being less than one third part of the number of the whole council; and at all such meetings the mayor, if present, shall preside; and the mayor, or, in the absence of the mayor, such alderman, or in the absence of all the aldermen, such councillor as the

members of the council then assembled shall choose to be the chairman that meeting, shall have a second or casting vote in all cases of equality of votes; and minutes of the proceedings of all such meetings shall be drawn up and fairly entered into a book to be kept for that purpose, and shall be signed by the mayor, alderman, or councillor presiding at such meeting; and the said minutes shall be open to the inspection of any burgess at all reasonable times on payment of a fee of one shilling: Provided always, That previous to any meeting of the council held by virtue of this act a notice of the time and place of such meeting shall be given three clear days at least before such meeting, by fixing the said notice on or near the door of the town hall in the borough; and such notice shall be signed by the mayor, who shall have power to call a meeting of the council as often as he shall think proper; and in case the mayor shall refuse to call any such meeting, after a requisition for that purpose signed by five members of the council at the least shall have been presented to him, it shall be lawful for the said five members to call a meeting of the council by giving such notice as is herein-before required in that behalf, such notice to be signed by the said members instead of the mayor, and stating therein the business proposed to be transacted at such meeting; and in every summons to attend the council, specifying the business proposed to be transacted at such meeting, signed by the town clerk, shall be left at the usual place of abode of every member of the council or at the premises in respect of which he is enrolled a burgess, three clear days at least before such meeting; and no business shall be transacted at any meeting other than is specified in the notice: Provided always, that there shall be in every borough four quarterly meetings in every year at which the council shall meet for the transaction of general business, and no notice shall need to be given of the business to be transacted on such quarterly days; and the said quarterly meetings shall be held on noon on the ninth day of November, or if the ninth day of November shall fall on a Sunday on the day following, and at such hour as such other three days before the first day of November then next following as the council at the quarterly meeting in November shall decide; and the first business transacted at the quarterly meeting in November shall be the election of mayor.

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Notice of meetings of council.

Quarterly meetings of council.

XX. That it shall be lawful for the council of any borough to appoint Council may of their own body, from time to time, such and so many committees, appoint members of a general or special nature, and consisting of such number of members as they may think fit, for any purposes which, in the discretion of such council, would be better regulated and managed by means of such committees: Provided always, that the acts of every such committee shall be submitted to the council for their approval.

XXI. And whereas divers bodies corporate now stand seised or Charitable possessed of sundry hereditaments and personal estate, in trust, in whole trustees. in part, for certain charitable trusts, and it is expedient that the administration thereof be kept distinct from that of the public stock and borough fund; be it enacted, That in every borough in which the body corporate, or any one or more of the members of such body corporate, his or their corporate capacity, now stands or stand solely, or either with any person or persons elected solely by such body corporate, or solely by any particular number, class, or description of members of such body corporate seised or possessed for any estate or interest whatsoever of any hereditaments, or any sums of money, chattels, securities for money, or any other personal estate whatsoever, in whole or in part in trust or for the benefit of any charitable uses or trusts whatsoever, all the estate, right, interest, and title, and all the powers of such body corporate, or of such member or members of such body corporate, in respect of the said uses and trusts, shall continue in the persons who at the time of the passing of this act are such trustees aforesaid, notwithstanding that they may have ceased to hold any office by virtue of which before the passing of this act they were such

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trustees, until the first day of day of August one thousand eight hundred and thirty-six, or until parliament shall otherwise order, and shall immediately thereupon utterly cease and determine: Provided always That if any vacancy shall be occasioned among the charitable trust for any borough before the said first day of August, it shall be law for the lord high chancellor or lords commissioners of the great seal the time being, upon petition, in a summary way, to appoint another trustee to supply such vacancy; and every person so appointed trustee as last aforesaid shall be a trustee until the time at which person in the room of whom he was chosen would regularly have ceased to be a trustee, and he shall then cease to be a trustee: Provided also That if parliament shall not otherwise direct, on or before the said first day of August one thousand eight hundred and thirty-six, the lord high chancellor or lords commissioners of the great seal shall make such orders as he or they shall see fit for the administration, subject to such charitable uses or trusts as aforesaid, of such trust estates.

Council to act as trustees where corporations were ex officio sole trustees.

LXXII. That the body corporate named in the said schedules (A.) and (B.) in conjunction with any borough shall be trustees for executed by the council of such borough the powers and provisions of all acts of parliament made before the passing of this act, (other than acts made for securing charitable uses and trusts,) and of all trusts (other than charitable uses and trusts) of which the said body corporate, or any of the members thereof in their corporate capacity, was or were sole trustees before the time of the first election of councillors in such borough under this act.

Council to appoint a limited number of councillors to be joint trustees for certain purposes.

LXXIII. That in every borough in which the body corporate, or any particular or limited number, class, or description of members of the body corporate, or of persons appointed by the body corporate, was sole trustees before the passing of this act jointly with other trustees for the execution of any act of parliament, or of any trust, or in which the body corporate, or any particular or limited number, class, or description of members or nominees of the body corporate, by statute, charter, bye-law, or custom was or were before the passing of this act lawfully appointed to or exercised any powers, duties, or functions whatsoever not otherwise herein provided for, and the continuance of which is not inconsistent with the provisions of this act, the council of such borough, on the day named in such act as last aforesaid, or the deed or will by which such trust is created for a new election nomination, or appointment of trustees, or on which such new election nomination, or appointment has usually been made, (and if there shall be no such day named or usually observed, then on the first day of January in every year,) shall appoint the like number of members of the council, or as near as may be to the like number of members of the council, as there were theretofore members or nominees of such corporation body who in right of their office were such trustees, or charged with the execution of such powers, duties, and functions, in room of the members or nominees of such corporate body ceasing to be trustees, or ceasing to exercise such powers, duties, and functions by virtue of this act, and in every case of extraordinary vacancy among the trustees or persons so appointed by the council shall forthwith appoint one of the members of the council in the room of the person by whom such vacancy has been made, and to hold his trust or office for such time as the person by whom such vacancy has been made would regularly have held it.

Present trustees for certain acts continued for a definite time.

LXXIV. That notwithstanding any thing in this act contained, every member of any body corporate who in his corporate capacity, or every nominee of any body corporate, or any particular number, class, or description of members of such body corporate, who at the time of the passing of this act shall be for a definite number of years or other shorter time a trustee of such acts or trusts as last aforesaid, shall continue to be such trustee until the time when he would have ceased to be such trustee if this act had not passed; and if a trustee for an indefinite

ite time, or for life, or for so long as he shall be a member, or of a particular class or description of such body corporate, then until the first day of January in the year one thousand eight hundred and thirty-six, and no longer; and every member of the council appointed under the provisions of this act to be a trustee of such acts or trusts as last aforesaid shall continue to be such trustee until the time herein provided for the new appointment of a member of the council to be trustee of this room, notwithstanding that he may have ceased to be a member of the council; and in case any particular member or officer of any of the said bodies corporate shall have been appointed by any such act, or by any such trust deed or will as last aforesaid, to perform during a definite number of years or other shorter time any specific powers, duties, or functions whatsoever; the person who at the time of the passing of this act shall be the person designated and qualified to perform the same shall continue to perform the same until the time when he would have ceased to perform the same if this act had not passed; and if appointed for an indefinite time, or for life, or for so long as he shall be a member, or of a particular class or description of such body corporate, then until the first day of January in the year one thousand eight hundred and thirty-six and no longer: Provided nevertheless, that nothing in this act shall be construed to extend to the body corporate of the trustees of the Liverpool docks, but that every person who at the time of the passing of this act shall be a trustee of the Liverpool docks, and no other, shall be continued to be such trustee until the first day of November in the year one thousand eight hundred and thirty-six, and no longer; and every such trustee who is appointed to discharge, or in the corporate capacity discharges any powers, duties, or functions whatsoever in respect of the said last-mentioned trust estate, and none other, shall continue to discharge the same, as if this act had not passed, until the first day of November in the year one thousand eight hundred and thirty-six, and no longer.

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c. 76.

Trustees not to go out of office by reason of ceasing to be of the council until the time prescribed by the terms of the trust.

LXXV. And whereas it may be expedient that the powers now vested in the trustees appointed under sundry acts of parliament for paving, cleansing, watching, regulating, supplying with water, and improving certain boroughs, or certain parts thereof, should be transferred to and vested in the councils of such boroughs respectively; it is enacted, That the trustees appointed by virtue of any such act of parliament as last aforesaid, wherein the trustees, or the persons whose names they may be, are not beneficially interested, may, if it shall seem to them expedient, at a meeting to be called for that purpose, transfer in writing under their hands and seals all the powers vested in them as such trustees by any such act or acts of parliament as aforesaid to the said body corporate of such borough, and the said body corporate of such borough shall thenceforth be trustee for executing by the council of such borough the several powers and provisions of any such act or acts of parliament, and the members of the council shall have the same powers and be subject to the same duties as if their names had been originally inserted in such act or acts, or as if they had been elected under the provisions of any such act or acts as such trustees respectively: Provided always, that no such transfer as aforesaid shall be made of the powers vested by virtue of the acts mentioned in schedule (E.) which relate to the town of Cambridge, without the consent of the Chancellor, masters, and scholars of the university of Cambridge.

Powers vested in trustees may be transferred to councillors.

LXXVI. That the council to be elected for any borough shall, immediately after their first election, and so from time to time thereafter as they shall deem expedient, appoint, for such time as they may think proper, a sufficient number of their own body, who, together with the mayor of the borough for the time being, shall be and be called the Watch committee for such borough; and all the powers herein-after given to such committee may be executed by the majority of those who shall be present at any meeting of such committee, the whole number present at each meeting being not less than three; and such watch committee shall,

A watch committee to be appointed, to consist of the mayor and councillors; such committee to appoint constables for the borough.

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5 & 6 W. 4,
c. 76.

Constables to be for the county, &c., as well as borough.

Watch committee to make regulations for the management of the constables.

Power to constables to apprehend disorderly persons, &c.

Constables attending at the watchhouses in the night may take bail by recognizance from persons brought before them for petty misdemeanours, such recognizance to be conditioned for the appearance of the parties before a magistrate.

In default of appearance recognizance to be forfeited.

within three weeks after their first formation, and so from time to time thereafter as occasion shall require, appoint a sufficient number of men who shall be sworn in before some justice of the peace having jurisdiction within the borough to act as constables for preserving peace by day and by night, and preventing robberies and other felonies and apprehending offenders against the peace; and the men so sworn shall not only within such borough, but also within the county in which such borough or part thereof shall be situated, and also within every county being within seven miles of any part of such borough, and within all liberties in any such county, have all such powers and privileges, and be liable to all such duties and responsibilities, as any constable duly appointed now has or hereafter may have within his jurisdiction by virtue of the common law of this realm, or of any statute made or to be made, and shall obey all such lawful commands as they may from time to time receive from any of the justices of the peace having jurisdiction within such borough, or within any county in which they shall be called on to act as constables, for conducting themselves in the execution of their office.

LXXVII. That the watch committee for any such borough as aforesaid may from time to time frame such regulations as they shall deem expedient for preventing neglect or abuse, and for rendering such constables efficient in the discharge of their duties; and the said committee or any two justices of the peace having jurisdiction within the borough may at any time suspend or dismiss any constable whom they shall think negligent in the discharge of his duty, or otherwise unfit for the same; and when any man shall be so dismissed, or cease to belong to the said constabulary force, all powers vested in him as a constable by virtue of this act shall immediately cease; and no man so dismissed as aforesaid shall be re-appointed without the consent of two of the justices of the peace having jurisdiction within the borough.

LXXVIII. That it shall be lawful for any constable during the time of his being on duty to apprehend all idle and disorderly persons whom he shall find disturbing the public peace, or whom he shall have just cause to suspect of intention to commit a felony, and to deliver any person so apprehended into the custody of the constable appointed under this act, who shall be in attendance at the nearest watch-house in order that such person may be secured until he can be brought before a justice of the peace to be dealt with according to law, or may give bail for his appearance before a justice of the peace, if the constable shall think fit to take bail, in the manner herein-after mentioned.

LXXIX. That where any person charged with any petty misdemeanor shall be brought without the warrant of a justice of the peace into the custody of any constable appointed under this act, during his attendance in the night-time at any watch-house within any such borough as aforesaid, it shall be lawful for such constable, if he shall think fit, to take bail by recognizance, without any fee or reward, from such person, conditioned that such person shall appear for examination within two days before a justice of the peace within the borough; some time and place to be specified in the recognizance; and every recognizance so taken shall be of equal obligation on the parties entering into the same, and liable to the same proceedings for the enforcement thereof, as if the same had been taken before a justice of the peace; and the constable shall enter in a book, to be kept for that purpose in every watch-house, the names, residence, and occupation of the party, and his surety or sureties, if any, entering into such recognizance, together with the condition thereof, and the sums respectively acknowledged, and shall lay the same before such justice as shall be present at the time and place when and where the party is required to appear; and if the party does not appear at the time and place required or within one hour after, the justice shall cause a record of the recognizance to be drawn up to be signed by the constable, and shall return the same to the next general or quarter sessions of the peace for the borough, or for the

my in which such borough is situate, in those boroughs for which there shall be no separate general or quarter sessions of the peace, with certificate at the back thereof, signed by such justice, that the party is not complied with the obligation therein contained; and the clerk of the peace shall make the like estreats and schedules of every such recognizance as of recognizances forfeited in the sessions of the peace; if the party not appearing shall apply by any person on his behalf to postpone the hearing of the charge against him, and the justice shall think fit to consent thereto, the justice shall be at liberty to enlarge the recognizance to such further time as he shall appoint; and when the matter shall be heard and determined, either by the dismissal of the plaintiff or by binding the party over to answer the matter thereof at the next sessions, or otherwise, the recognizance for the appearance of the party before a justice shall be discharged without fee or reward.

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5 & 6 W. 4,
c. 76.

Time of hearing may be postponed.

XXX. That if any constable of any borough shall be guilty of any neglect of duty or of any disobedience of any lawful order, every such constable, after being convicted thereof before any two justices of the peace, shall for every such offence be liable to be imprisoned for any time not exceeding ten days, or to be fined in any sum not exceeding forty shillings, or to be dismissed from his office, as such justices shall in their discretion think meet.

Penalties on constables for neglect of duty.

XXXI. That if any person shall assault or resist any constable of any borough appointed under this act in the execution of his duty, or shall aid or incite any person so to assault or resist, every such offender, after being convicted thereof before any two justices of the peace, shall for every such offence forfeit and pay such sum not exceeding five pounds as the said justices shall think meet: Provided always, That nothing herein contained shall prevent any prosecution by way of indictment against any person so offending, but so as that such person shall not be prosecuted by indictment and also proceeded against under this act for the same offence.

Penalty for assaults on constables.

Proviso.

XXXII. That the treasurer of every borough appointed under this act shall pay to the constables of such borough appointed under this act their salaries, wages, and allowances, and at such periods, as the watch committee for such borough shall, subject to the approbation of the council, direct, and the council shall order to be paid also any extraordinary expences which such persons shall appear to have necessarily incurred in apprehending offenders and executing the orders of any justice of the peace having jurisdiction within such borough, such expences having been first examined and approved by such justice; and the said treasurer shall also pay such further sums as the watch committee shall, subject to the approbation of the council, award to any of the persons belonging to the said constabulary force, as a reward for extraordinary diligence or exertion, or as a compensation for wounds or other injuries received in the performance of their duty, or as an allowance to such of them as shall be disabled by bodily injury received, or shall be worn out by length of service, and all other charges and expences which the watch committee shall, subject to the approbation of the council, direct to be paid for the purposes of the constabulary force under this act.

Regulation and payment of expences.

Rewards for activity, &c.

XXXIII. That any two or more of the justices of the peace having jurisdiction within any borough are hereby authorized and required in every year to nominate and appoint by precept under their hands, so many as they shall think fit of the inhabitants of such borough (not legally exempt from serving the office of constable), to act as special constables within such borough whensoever they shall be required by the warrant of any of the justices of the peace having jurisdiction within such borough so to act, and not otherwise; and every such warrant shall recite that in the opinion of the justice granting the same the ordinary police force of the borough is insufficient at that time to maintain the peace of the borough; and every person so appointed a special constable shall take the oath set forth in

Magistrates to appoint annually a certain number of persons to act as special constables.

No. V. the act passed in the session of parliament holden in the first & second years of the reign of his present Majesty, intituled *An Act amending the Laws relative to the Appointment of Special Constables, for the better preservation of the Peace*, and shall have the powers & immunities and be liable to the duties and penalties enacted by said last-mentioned act; and every person so appointed a special constable shall receive, out of the borough fund, for every day during which he shall be called out to act as such, the sum of three shillings and sixpence, and no more.

On notice of appointment of constables, the present provisions in local acts as to watching, &c. to cease.

Watchboxes, arms, &c. to be given up for the use of the constables appointed under this act.

Penalty for not giving them up.

LXXXIV. That as soon as constables shall have been appointed the watch committee for any borough, a notice, signed by the mayor of such borough, specifying the day on which such constables shall be called out to act, shall be fixed on the door of the town hall and every church within such borough; and on the day so specified in such notice, much of all acts named in conjunction with such borough in the Schedule (E.) to this act annexed, and of all acts made before the passing of this act, as relates to the appointment, regulation, powers, and duties or to the assessment or collection of any rate to provide for the expenses of any watchmen, constables, patrol, or police for any place situated within such borough, shall cease and determine; and watch-houses and watch-boxes in any such place, and all arms, accoutrements, and other necessities provided at the public expence for a watchmen, constables, patrol, or police therein, shall be given up by such persons as shall be named by the said mayor in such notice, for the use and accommodation of the constables to be appointed under this act, and all the property so to be given up shall be deemed to belong to the body corporate of such borough; and in case any person having the charge, control, or possession of any watch-house, watch-box, arms, accoutrements, or necessities as aforesaid shall neglect or refuse to give up the same as herein-before required, every such offender, being convicted thereof before any two justices of the peace, shall for every such offence forfeit and pay, over and above the value of the property not given up, such sum not exceeding five pounds as the said justices shall think meet; and where there shall be any building in any such place as aforesaid a part only of which building shall have been heretofore used as a watch-house, such part shall be given up every day, from the hour of four in the afternoon until the hour of nine in the forenoon for the use and accommodation of the constables to be appointed under this act; and if any person having the charge, control, or possession of any such building shall neglect or refuse to give up such part thereof for the purposes aforesaid, or to permit free access thereto or egress therefrom during any portion of the time above prescribed, every such offender, being convicted thereof before any two justices of the peace, shall for every such offence forfeit and pay such sum not exceeding five pounds as the said justices shall think meet: Provided nevertheless that in every case in which before the passing of this act a rate might be levied in any borough for the purpose of watching, conjointly with any other purpose, nothing in this act contained shall be construed to prevent the levying and collecting of such rate for such other purpose solely, or to repeal the powers given in any act so far as the same relate to such other purpose: Provided always, that where the amount of such rate before the passing of this act might not exceed a given rate in the pound on the value of property rateable thereunto, the rate so to be levied for such other purpose solely shall not exceed such proportion of the said given rate in the pound as shall appear to have been expended for such purpose other than watching by an account of the average yearly expenditure during the last seven years, or where such rate shall not have been levied during seven years, then during such less number of years as such rate shall have been levied.

Proviso as to rates in arrear, and as to debts.

LXXXV. Provided always, That any rate for defraying the expences aforesaid, made previously to the day specified in such notice as aforesaid,

id, shall be levied and collected in the same manner as if this act had been passed: Provided also, that nothing herein contained shall prevent the levying and collecting of any rate in any such place as aforesaid for the purpose of paying any debt contracted before the passing of this act, or the interest of any such debt, but that such rate shall and may be levied and collected in the same manner as if this act had not been passed.

LXXXVI. That the watch committee of every such borough shall, on the first day of January, the first day of April, the first day of July, and the first day of October in every year, transmit to one of his Majesty's principal secretaries of state a report of the number of men appointed to act as constables or policemen in such borough, and of the description of arms, accoutrements, and clothing, and other necessities furnished to each man, and of the salaries, wages, and allowances payable to such constables or policemen, and of the number and situation of all station houses in such borough; and also a copy of all rules, orders, and regulations which shall from time to time be made by such watch committee or by the council of such borough for the regulation and guidance of such constables or policemen.

LXXXVII. And whereas parts of certain boroughs are within the provisions of one or more local act or acts for regulating the lighting thereof, and certain other parts of the same boroughs are not within the provisions of any local act for regulating the lighting thereof, and for want of such lighting the efficiency of the constables may be much diminished, and great facilities afforded for the commission of crimes and for the escape of offenders; for remedy thereof be it enacted, That it shall be lawful for the council of any borough in any part of which there is a local act for the lighting thereof to make an order that any part of such borough not being within the provisions of any local act for the lighting thereof shall, from and after a certain day to be named in such order, be taken to be within the provisions of such local act or acts for lighting any part of such borough as the common council shall specify in such order; and after such day the part named in such order shall be within the provisions of the act or acts so specified, so far as relates to lighting, or to any rates authorized to be levied for the purpose of lighting, as fully as if such part had been originally named in such act or acts, any thing in such act or acts to the contrary notwithstanding: Provided always, that every part named in such order shall be lighted in the like manner as those parts which before the making of such order were within the provisions of such local act, and that the rate to be raised for the purpose of defraying the expences of lighting any part so named in such order shall not exceed the average expence in the pound of the lighting of the other parts of such borough.

LXXXVIII. That if the council of any borough chosen under this act, shall, by public notice to be affixed on the outer door of the town hall or in some public place within the borough, declare that on a certain day, to be named in such notice, not less than twenty-one days after the day on which such public notice shall have been given, they will take upon themselves the powers given to the inspectors named in a certain act made in the third and fourth year of his present Majesty, intituled *An Act to repeal an Act of his late Majesty King George the Fourth, for the lighting and watching of Parishes in England and Wales, and to make other Provisions in lieu thereof*, so far as the same relates to the lighting the whole or any part of any borough which is not within the provisions of any local act, or in which there is no power of levying rates for lighting the same, the council of such borough shall, after the day named in such notice, have the same powers and duties as belong to inspectors under the said last-recited act in regard to lighting, and to levying rates for the purpose of lighting such part of the borough, except so far as the same are contrary to or inconsistent with the provisions of this act; and in such case the council shall have the sole power to fix and determine the amount of money which they will call

No. V.
5 & 6 W. 4,
c. 76.

Watch committee to transmit a report quarterly to the secretary of state, and also a copy of their rules, &c.

Power for council to order parts of a borough not within a local act as to lighting to be included in such act.

Proviso as to amount of rate for lighting.

Council may assume the powers of inspectors under 3 & 4 W. 4, c. 90, for lighting any part of the borough not within a local act for lighting the same.

No. V.
5 & 6 W. 4,
c. 76.

Act not to interfere with the regulations for the government &c. of dockyards, arsenals, &c.

2 & 3 W. 4,
c. 40.

Council to have power to make bye-laws.

As to breaches of bye-laws.

All corporate property and all fines received to be carried to the account of the borough fund

for in any one year for the purpose of lighting such part of the borough so that such sum shall not exceed the rate of sixpence in the pound. the full and fair annual value of all property rateable to the relief of the poor within such part of the borough: Provided also, That it shall be lawful in such case for the inhabitants of such part of the borough at any time to determine that the provisions of the said recited act shall cease to be acted upon.

LXXXIX. Provided always, That nothing herein contained shall be construed to interfere with the watching, paving, or lighting, and internal regulations established for the government and security of any of his Majesty's dockyards, victualling establishments, arsenals, or barracks respectively; nor shall any of the tenements within the said dockyards, victualling establishments, arsenals, or barracks, or the inhabitants of the same, be liable to be assessed to the rates for watching, paving, or lighting the other parts of the city, borough, or parish within which the same may be respectively situated, unless such tenements or the inhabitants thereof are now or may hereafter become liable to be assessed to any such rates made under or by virtue of any law or statute now in force; nor shall any thing herein contained extend to defeat or affect the authority of justices of the peace which by an act passed in the second year of his present Majesty's reign, intituled *An Act to amend the Laws relating to the Business of the Civil Department of the Navy, and to make other Regulations for more effectually carrying on the Duties of the said Departments*, is vested in the commissioners for executing the office of lord high admiral of the United Kingdom, and in the superintendents of the several dockyards and other naval and victualling establishments, in all places and in all matters relating to his Majesty's naval service, and to the stores, provisions, ammunition, and accounts thereof.

XC. That it shall be lawful for the council of any borough to make such bye-laws as to them shall seem meet for the good rule and government of the borough, and for prevention and suppression of such nuisances as are not already punishable in a summary manner by virtue of any act in force throughout such borough, and to appoint by such bye-laws such fines as they shall deem necessary for the prevention and suppression of such offences; Provided that no fine so to be appointed shall exceed the sum of five pounds, and that no such bye-law shall be made unless at least two thirds of the whole number of the council shall be present: Provided that no such bye-law shall be of any force until the expiration of forty days after the same or a copy thereof shall have been sent, sealed with the seal of the said borough, to one of his Majesty's principal secretaries of state, and shall have been affixed on the outer door of the town hall or in some other public place within such borough; and if at any time within the said period of forty days his Majesty, with the advice of his privy council, shall disallow the same bye-law or any part thereof, such bye-law or the part thereof disallowed shall not come into operation: Provided also, That it shall be lawful for his Majesty, if he shall think fit, at any time within the said period of forty days, to enlarge the time within which such bye-law, if disallowed, shall not come into force; and no such bye-law shall in that case come into force until after the expiration of such enlarged time.

XCI. That all the provisions herein-after contained relative to offences against this act punishable upon summary conviction shall be taken to apply to all offences committed in breach of any bye-law or regulation made by virtue of this act.

XCII. That after the election of the treasurer in any borough the rents and profits of all hereditaments, and the interest, dividends, and annual proceeds of all monies, dues, chattels, and valuable securities belonging or payable to any body corporate named in conjunction with the said borough in the said schedules (A.) and (B.), or to any member or officer thereof in his corporate capacity, and every fine or penalty for

any offence against this act (the application of which has not been
 already provided for), shall be paid to the treasurer of such borough ;
 and all the monies which he shall so receive shall be carried by him to
 account of a fund to be called "The Borough Fund;" and such
 fund shall be subject to the payment of any lawful debt due from such body
 corporate to any person, which shall have been contracted before the
 passing of this act, and unredeemed, or of so much thereof as the coun-
 cil of such borough from time to time shall be required or shall deem
 expedient to redeem, and to the payment from time to time of the
 interest of so much thereof as shall remain unredeemed, and saving all
 rights, interests, claims, or demands of all persons or bodies corporate
 upon the real or personal estate of any body corporate by virtue
 of any proceedings either at law or in equity which have been already
 instituted or which may be hereafter instituted, or by virtue of any
 writ or otherwise, shall be applied towards the payment of the
 salary of the mayor, and of the recorder and of the police magistrate,
 and after-mentioned when there is a recorder or police magistrate,
 and of the respective salaries of the town clerk and treasurer, and of
 any other officer whom the council shall appoint, and also toward the
 payment of the expences incurred from time to time in preparing and
 issuing burgess lists, ward lists, and notices, and in other matters
 attending such elections as are herein mentioned, and, in boroughs
 which shall have a separate court of sessions of the peace as is herein-
 after provided, towards the expences of the prosecution, maintenance,
 and punishment of offenders, and towards such other sum to be paid by
 such borough to the treasurer of such county as is herein-after provided,
 and towards the expence of maintaining the borough gaol, house of cor-
 rection, and corporate buildings, and towards the payment of the con-
 stables, and of all other expences not herein otherwise provided for
 which shall be necessarily incurred in carrying into effect the provisions
 of this act; and in case the borough fund shall be more than sufficient
 for the purposes aforesaid, the surplus thereof shall be applied, under
 the direction of the council, for the public benefit of the inhabitants and
 improvement of the borough; Provided that it shall not be lawful for
 the council to be elected under the provisions of this act, in any borough
 in which the body corporate named in conjunction with the said
 borough in the said schedules (A.) and (B.), before the time of the
 passing of this act shall have contracted any lawful debt chargeable on
 any tolls or dues belonging or payable to the said body corporate, or to
 any member or officer thereof in his corporate capacity, or towards the
 satisfaction whereof such tolls or dues or any part thereof were appli-
 cable before the passing of this act, to alter or reduce the amount to be
 paid and payable of such tolls or dues, or to grant for any considera-
 tion any remission of or exemption from such tolls or dues or any part
 thereof, unless with the consent in writing under the hands of a
 majority in number and amount of the creditors to whom such debt is
 due, until after such debt and all arrears of interest due thereon shall
 have been fully paid and satisfied; and in case the borough fund shall
 not be sufficient for the purposes aforesaid, the council of the borough
 is hereby authorized and required from time to time to estimate, as cor-
 rectly as may be, what amount, in addition to such fund, will be suffi-
 cient for the payment of the expences to be incurred in carrying into
 effect the provisions of this act; and in order to raise the amount so
 estimated the said council is hereby authorized and required from time
 to time to order a borough rate in the nature of a county rate to be
 made within their borough, and for that purpose the council of such
 borough shall have within their borough all the powers which any jus-
 tices of the peace assembled at their general or quarter sessions in any
 county in England have within the limits of their commission by virtue
 of an act made in the fifty-fifth year of his late Majesty king George the
 third, intituled *An Act to amend an Act of his late Majesty King George*
the Second, for the more easy assessing, collecting, and levying of County

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 c. 76.

Payment of
 debts, &c. sala-
 ries of recorder,
 town clerk,
 treasurer, and
 other officers,
 and election
 expences to be
 paid out of
 such fund.

Application of
 surplus.

If the fund be
 insufficient, the
 council shall
 order a rate to
 make up the
 deficiency.

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c. 76.

Rates, or as near thereto as the nature of the case will admit, except is herein-after excepted; and all warrants required by the said act to issued under the hands and seals of two or more justices shall in l case be signed by the mayor, and sealed with the seal of the boroug provided that such council shall not be empowered to receive, hear, determine any appeal against any such rate; and if any person sh think himself aggrieved by any such rate it shall be lawful for him appeal to the recorder herein-after mentioned at the next quar sessions for the borough in which such rate has been made, or case there shall be no recorder within such borough, to the justi at the next court of quarter sessions for the county within wh such borough is situate or whereunto it is adjacent; and such recorder or justices respectively shall have power to hear and determ the same, and to award relief in the premises, as in the case of appeal against any county rate; and all such sums levied in pursuance of such borough rate shall be paid over to the account of t borough fund, and, subject to the provisions herein-before contain shall be applied to all purposes to which before the passing of t act a borough rate or county rate was by law applicable in su borough or county: Provided that in every case in which before t passing this act any rate might be levied in any borough, or in a parish or place made part of any borough under the provisions of t act, for the purpose of watching solely by day or by night, or for t purpose of watching by day or by night conjointly with any other p pose, it shall be lawful for the council of such borough to levy a wat rate sufficient to raise any sum not greater than the average yearly su which during the last seven years, or where such rate shall not ha been levied during seven years then during such less number of yea as such rate shall have been levied, shall have been expended in t maintenance and establishment of watchmen, constables, patrole, policemen within the district in which such rate was levied, and t that purpose the council shall have all the powers herein before giv to the council in the matter of the borough rate; and where any p of any borough shall not at the time of the passing of this act t within the provisions of the act authorizing the levy of such rate t watching as aforesaid it shall be lawful for the council from time time to order that such part, or so much thereof as to the council sh seem fit, shall be rated to the watch rate in like manner as other pa of the borough to be specified in such order, and such watch rate t upon shall be levied within the part mentioned in such order in li manner as in the other parts of the borough so specified, and all su sums levied in pursuance of such watch rate shall be paid over to t account of the borough fund: Provided always, That no such orde last aforesaid shall be made for rating to such watch rate any part any borough in which at the time of passing this act such rate as afo said shall not be levied, and which is more than two hundred yar distant from any street or continuous line of houses which shall regularly watched within the borough under the provisions of this ac Provided also, That nothing in this act contained shall be construed render liable to the payment of any debt contracted before the passi of this act by any body corporate any part of the real or personal esta of the said body corporate which before the passing of this act was n liable thereto, or to authorize the levy of any rate within any part of a borough for the purpose of paying any debt contracted before the pa ing of this act which before the passing of this act could not lawfully levied therein towards the payment of the same.

Accounts of receipts and disbursements to be kept, audited, and published.

XCIII. That the treasurer of every borough shall, in books to kept for that purpose, enter true accounts of all sums of money by hi received and paid, and of the several matters for which such sums sh have been received and paid; and the books containing the account shall at all seasonable times be open to the inspection of any of t aldermen or councillors of such borough; and all the accounts, with t

nders and papers relating thereto, shall, in the months of March and September in every year, be submitted by the treasurer of the borough and the auditors herein-before provided to be elected, and to such member of the council as the mayor shall name on the first day of March in every year, or in case of extraordinary vacancy within ten days next after such vacancy, for the purpose of being examined and audited, on the first day of September in the year preceding to first day of March, and from the first day of March to the first day of September in the year in which the said auditors were elected and named, and if the said accounts shall be found to be correct, the auditors shall sign the same; and after such accounts shall have been so examined and audited in the month of September in every year, the treasurer shall make out a writing, and shall cause to be printed, a full abstract of his accounts for the year, and a copy thereof shall be open to the inspection of all the rate-payers of such borough, and copies thereof shall be delivered to all rate-payers of such borough applying for the same, on payment of a reasonable price for each copy.

XCIV. That it shall not be lawful for the council of any body corporate to be elected under this act to sell, mortgage, or alienate the lands, tenements, or hereditaments of the said body corporate, or any part thereof, except in pursuance of some covenant, contract, or agreement *bond fide* made or entered into on or before the fifth day of June in this present year, by or on behalf of the body corporate of any borough, or if some resolution duly entered in the corporation books of such body corporate on or before the said fifth day of June, or to demise or lease, except in pursuance of some covenant, contract, or agreement *bond fide* made or entered into on or before the said fifth day of June by or on the behalf of such body corporate, or in pursuance of some resolutions duly entered in the corporation books of such body corporate on or before the said fifth day of June, or except in the cases herein-after mentioned, any lands, tenements, or hereditaments of such body corporate, or any part thereof, or to enter into any new covenant, contract, or agreement (except in the cases herein-after mentioned) for demising or leasing any such lands, tenements, or hereditaments, or any part thereof, for any term exceeding thirty-one years from the time when such lease shall be made, or if made in pursuance of a previous agreement, then from the time when such agreement shall have been entered into; and in every lease which the said council is not hereby restrained from making there shall (except in the cases herein-after mentioned) be reserved and made payable during the whole of the term thereby granted such clear yearly rent as to the council shall appear reasonable, without taking any fine for the same: Provided nevertheless, that in every case in which such council shall deem it expedient to sell and alienate or to demise and lease for a longer term than thirty-one years, or upon different terms and conditions than those herein-before mentioned, any of the said lands, tenements, or hereditaments, it shall be lawful for such council to represent the circumstances of the case to the lords commissioners of his Majesty's treasury; and it shall be lawful for such council, with the approbation of the said lords commissioners or any three of them, to sell, alienate, and demise any of the lands, tenements, and hereditaments of the said body corporate in such manner and on such terms and conditions as shall have been approved by the said lords commissioners: Provided always, that notice of the intention of the council to make such application as aforesaid shall be fixed on the outer door of the town hall, or in some public and conspicuous place within the borough, one calendar month at least before such application; and a copy of the memorial intended to be sent to the said lords commissioners shall be kept in the town clerk's office during such calendar month, and shall be freely open to the inspection of every burgess at all reasonable hours during the same.

Power of sale
and leasing re-
strained.

XCV. Provided always, That in all cases in which any body corporate shall on the fifth day of June in this present year have been bound any borough

The council of
any borough

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under this act
authorized to
renew leases,
&c.

Leases of cer-
tain buildings,
and of ground
for building on,
or for making
gardens, &c.,
may be made
for seventy-
five years.

Collusive pur-
chases, sales,
and demises of
corporate prop-
erty since the
5th June 1835,
for undue con-
sideration, may
be set aside.

or engaged by any covenant or agreement, express or implied, or has been enjoined by any deed, will, or other document, or have been sanctioned or warranted by ancient usage or by custom or practice, to make any renewal of any lease for years, or for life or lives, or for years determinable with any life or lives at any fixed or determinate or known accustomed period, or after the lapse of any number of years, or on the dropping of any life or lives, and years determinable after the lapse any number of years, at a fine certain, or under any special or special terms or conditions, and also in all cases in which any body corporate shall theretofore have ordinarily made renewal of any lease for years, for life or lives, or for years determinable with any life or lives at a fixed or determinate or known or accustomed period, or after the lapse of any number of years, or upon the dropping of any life or lives, upon the payment of an arbitrary fine, it shall be lawful for the council of such borough to renew such lease for such term or number of years either absolutely or determinable with any life or lives, or for such life or lives, and at such rent, and upon the payment of such fine or premium, either certain or arbitrary, and with or without any covenant or agreement, the future renewal thereof, as such body corporate could or might have done in case this act had not been passed.

XCVI. Provided nevertheless, That in any of the instances hereinafter mentioned it shall be lawful for the council from time to time to demise and lease, or to enter into any contract or agreement for the demising and leasing, any of the said lands, tenements, or hereditaments, to any person, body politic, corporate, or collegiate, for any term not exceeding seventy-five years from the time of making such lease or agreement; (that is to say,) of tenements or hereditaments the great part of the yearly value of which shall at the time of making the lease or agreement consist of any building or buildings, of land or ground proper for the erection of any houses or other buildings thereupon, with or without gardens, yards, curtilages, or other appurtenances to be used therewith, and, where the lessee or intended lessee shall covenant to agree to erect a building or buildings thereon of greater yearly value than such land or ground, of land or ground proper for gardens, yards, curtilages, or other appurtenances to be used with any other house or other building erected or to be erected on any such ground, belonging either to such body corporate or to any other proprietor, or proper for any other purpose calculated to afford convenience or accommodation to the occupiers of any such house or building.

XCVII. That it shall be lawful for the council first to be elected in any borough under the provisions of this act to call in question any purchases, sales, leases, and demises not made in pursuance of such *bona fide* covenant, contract, agreement, or resolution made or entered into as aforesaid before the said fifth day of June, and all contracts for the purchase, sale, lease, or demise of any lands, tenements and hereditaments, and all divisions and appropriations of the monies, goods, and valuable securities, or any part of the real or personal estate, of which on or before the fifth day of June in this present year the body corporate of which they are the council, whether in their own right or as trustees for charitable or other purposes, was seized or possessed, which shall have been made or contracted between the said fifth day of June and the day of the declaration of their election; and for that purpose, if it shall appear to the said council that there is ground for believing that any such purchase, sale, lease, or demise, or such contract, or such division or appropriation of the premises, was collusively made for no consideration, or for an inadequate consideration, it shall be lawful for the council of such borough, at any time within six calendar months next after the first election of councillors under this act shall have been declared in such borough, upon notice of their intention being first given in the *London Gazette*, and also affixed on the outer door of the town hall or in some public place within the borough, to cause the value of the lands, tenements, hereditaments

premises in question to be inquired of and found by a jury of five indifferent men of the county in which, or adjoining to which in case of Berwick-upon-Tweed, and of all counties of cities and towns corporate, such lands, tenements, hereditaments, or premises do lie; in order thereto the said council is empowered to summon and call such jury all persons having the custody and possession of any land or agreement concerning the said lands, tenements, hereditaments, premises made or entered into since the said fifth day of June, and cause all such deeds and agreements to be produced before the said jury, and examined by them, and to examine upon oath every person who shall be thought necessary to be examined (which oath the mayor is hereby empowered to administer); and the council shall, by ordering a jury or otherwise, use all lawful means for the information as well of themselves as of the said jury in the premises; and the jury shall find the value of the said lands, tenements, hereditaments, and premises, and the consideration which shall have been given, and also that which ought of right to have been given, for the purchase, sale, lease, demise, appropriation thereof, according to the terms of such purchase, sale, lease, demise, contract, or appropriation, and taking into account all the circumstances under which the same shall have taken place; and if the jury by their oaths shall find that no consideration, or a consideration less than that which they shall have so found to be the value which ought therefore to have been given, shall have been collusively given or contracted to be given by the terms of any such purchase, sale, lease, demise, contract, or appropriation, the party to such purchase, sale, lease, demise, contract, or appropriation shall have his option either to convey and restore the lands, tenements, hereditaments, and premises in question, and to abandon the contract to which he shall have been party, upon receipt in each case of the consideration, if any, which he shall have given for the same, or to give therefore in each case such additional consideration so that the whole consideration given shall be at least which ought of right to have been given, so found by the jury as aforesaid; and in every such case as last aforesaid the additional consideration given or to be given shall be endorsed on the original deed of conveyance; and unless he shall so do within one calendar month next after the finding of the jury every such purchase, sale, lease, demise, contract, and conveyance shall be absolutely void and of none effect, as against the said body corporate and their successors; and in every case in which any such contract shall have been abandoned as aforesaid, or in which any such purchase, sale, lease, demise, contract, or conveyance, shall become void and of none effect; under the provisions of this act, the party who would otherwise have had the benefit of the same shall be remitted to his former estate, title, and interest (if any) in the premises as if no such contract, purchase, sale, lease, or demise had been made or entered into; and for summoning and returning such juries, and for imposing fines on the sheriff, his deputy, bailiff, or agent, and on the persons summoned and returned on the said jury, and on any person required to give evidence, who shall in this behalf contravene the provisions of this act, the council of every such borough shall have all the powers given in that behalf to the trustees or commissioners of any turnpike road by an act made in the third year of his late Majesty George the Third, intituled *An Act to amend the General Laws now in being for regulating Turnpike Roads in that part of Great Britain called England*; and all the costs of the said jury, and of all witnesses tendered by the said council to be examined before the said jury, shall in every case be borne by the council, and paid out of the borough fund: Provided nevertheless, That it shall be lawful for his Majesty, if he shall think fit, by the advice of his privy council, upon petition to him setting forth the special circumstances under which any purchase, sale, lease, demise, contract, or appropriation of any of the said lands, tenements, hereditaments, and premises shall have been made since the said fifth day of June, to order

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c. 76.

His Majesty's
commission
may be issued
for certain per-
sons to act as
justices in any of
such boroughs.

Councils may
make bye-laws,
on which the
crown may ap-
point salaried
justices.

Council to pro-
vide a police
office.

Justices need
not be qualified
by estate.

that the same shall not be called in question under the provisions of this act; and in such case as last aforesaid the same shall not be called in question or set aside or affected under the provisions of this act. Provided always, That in every case in which such petition shall have been presented it shall be lawful for his Majesty, if he shall think fit, to enlarge the time within which (in case his Majesty shall not think fit to make such order as aforesaid) the council may have power as aforesaid to call in question any purchase, sale, lease, demise, contract, or appropriation referred to in such petition.

XCVIII. That it shall be lawful for his Majesty from time to time to assign to so many persons as he shall think proper his Majesty's commission to act as justices of the peace in and for each borough, and in and for each of the counties of cities and towns respectively named in the said schedule (A.), and in and for such of the boroughs in the said schedule (B.) to which his Majesty may be pleased upon the petition of the council thereof to grant a commission of the peace: Provided nevertheless, That every person so to be assigned shall reside within the borough for which he shall be so assigned, or within seven miles of such borough, or of some part thereof, during such time as he shall act as justice of the peace in and for such borough.

XCIX. That if the council of any borough shall think it requisite that a salaried police magistrate or magistrates be appointed within such borough, such council is hereby empowered to make a bye-law fixing the amount of the salary which he or they are to receive in that behalf, and such bye-law so made by any council as aforesaid shall be transmitted to one of his Majesty's principal secretaries of state, and it shall be lawful thereupon for his Majesty, if he shall think fit, to appoint one or more fit persons, according to the number fixed in the said bye-law (being barristers at law of not less than five years standing), to be during his Majesty's pleasure police magistrate or magistrates and justice or justices of the peace for such borough, and to direct that such sum shall be paid quarterly out of the borough fund of such borough as will be sufficient to pay such yearly salary to each of the justices so assigned as last aforesaid, not exceeding in the whole the salary mentioned in the prayer of such petition, clear of all fees or deductions, as to his Majesty shall seem fit; and the treasurer of such borough shall thereupon pay to each justice so assigned as last aforesaid, out of the borough fund of such borough, the salary so directed to be paid, by four equal quarterly payments, and in the same proportion up to the time of the death of such justice or his ceasing to act under such assignment as aforesaid: Provided that in every case of vacancy of the office of police magistrate in any borough aforesaid no new appointment of police magistrate in such borough shall be made until the council shall again make application to one of his Majesty's principal secretaries of state in that behalf, and as in the case of the first appointment of a police magistrate in such borough.

C. That the council of every borough to which a separate commission of the peace shall be granted under the provisions of this act shall be authorized and required to provide and furnish one or more fit and suitable office or offices, to be called "The Police Office" or "Offices" of the borough, for the purpose of transacting the business of the justices of such borough, and to pay from time to time out of the borough fund such sums as may be necessary for providing, upholding, and furnishing, and for the necessary expences of such police office or offices: provided that no room in any house licensed as a victualling house or alehouse shall be used for the purposes of any such police office.

CI. That every person assigned to keep the peace within any borough under the provisions of this act, or any of them, shall, during the continuance of such assignment, execute the duties of a justice of the peace in and for the borough for which he shall have been so assigned, although he may not have such qualification by estate as is required by law in the case of other persons being justices of the peace for a county.

wided that such person be not disqualified by law to act as a justice of the peace for any other cause or upon any other account than in respect of estate, and although such person may not be a burgess of the borough in and for which he shall have been assigned to act as a justice of the peace; and that every summons for the appearance of any person, or warrant to compel such appearance, or warrant for the apprehension of any person charged with any offence, or search warrant, issued by any justice of the peace acting in and for any borough in any matter within the jurisdiction, may be respectively served and executed within any township in which the said borough shall be situated, or within any township not exceeding seven miles from such borough, and within such township as aforesaid shall have the same force and effect as if the same had been originally issued or subsequently indorsed by a justice of the peace having jurisdiction in the place where the same shall be served or executed, any law, statute, charter, or usage to the contrary notwithstanding; and every such summons and warrant shall and may be lawfully served or executed within such limits as aforesaid by the constable or special constable to whom the same shall be directed: Provided nevertheless, That no such person, by virtue of such assignment, shall act as a justice of the peace at any court of gaol delivery or general quarter sessions, or in making or levying any county rate, or rate in the nature of a county rate.

Such justices not to sit in courts of gaol delivery, &c.

CII. That it shall be lawful for the justices of every borough to which a separate commission of the peace shall be granted as aforesaid, at their first or any other meeting, and they are hereby respectively required to appoint a fit person to be the clerk to the justices of such borough, to be removable at their pleasure, and so as often as there shall be a vacancy in the said office of clerk to the justices by death, resignation, removal, or otherwise; provided that it shall not be lawful for the said justices to appoint or continue as such clerk to the justices any alderman or councillor of such borough, or clerk of the peace of such borough, or the partner of such clerk of the peace, or any clerk or person in the employ of such clerk of the peace: Provided also, That it shall not be lawful for the said clerk to the justices, by himself or his partner, to be directly or indirectly interested or employed in the prosecution of any offender committed for trial by the justices of whom he shall be such clerk as aforesaid, or any of them, at any court of gaol delivery or general or quarter sessions; and any person being an alderman or councillor, or clerk of the peace of any borough, or the partner of such clerk or in the employ of such clerk of the peace, who shall act as clerk to the justices of such borough, or shall otherwise offend in the premises, shall for every such offence forfeit and pay the sum of one hundred pounds, one moiety thereof to the treasurer of such borough, to be paid over to the credit and account of the borough fund of such borough, and the other moiety thereof, with full costs of suit, to any person who will sue for the same in any of his Majesty's courts of record at Westminster.

Justices to appoint a clerk, who shall not be clerk of the peace, or an alderman or councillor, nor be concerned in the prosecution of offenders committed by the borough justices.

CIII. That the council of every borough which shall be desirous that a separate court of quarter sessions of the peace shall be or continue to be holden in and for such borough shall signify the same by petition to his Majesty in council, setting forth the grounds of the application, the state of the gaol, and the salary which they are willing to pay to the recorder in that behalf; and it shall be lawful for his Majesty, if he shall be pleased thereupon to grant that a separate court of quarter sessions of the peace shall be thenceforward holden in and for such borough, to appoint for such borough, or for any two or more of such boroughs conjointly, a fit person, being a barrister at law of not less than five years standing, who shall be and be called the recorder of such borough or boroughs, and shall hold such office during his good behaviour, and upon any vacancy in any such office to appoint another fit person, being a barrister at law of not less than five years standing, to be the recorder in the place of the person so making such vacancy;

His Majesty may grant a separate court of quarter sessions, and appoint a recorder in certain boroughs.

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c. 76.

Recorder to be
a justice of the
peace for the
borough;

but not a mem-
ber of parlia-
ment for the
borough, alder-
man, council-
lor or police
magistrate.

2 W. 4, c. 45.

Recorder and
justices to make
declaration be-
fore acting.

Sessions of the
peace to be held
for the borough
of which the
recorder to be
the sole judge.

Recorder not
to make or levy
county rate, &c.

and the council of every such borough shall appoint a fit person to be clerk of the peace during his good behaviour; and the recorder for the time being of any borough shall be a justice of the peace of and for such borough, although he may not have such qualification by estate as is required by law in the case of any other person being a justice of the peace for a county; and such recorder shall have precedence in all places within the borough of which he may be the recorder next after the mayor thereof; and in such case it shall be lawful for his Majesty to direct that an annual salary, not exceeding the sum stated in the petition of the council, shall be paid to such recorder, by the treasurer of such borough out of the borough fund: Provided always, That no person being such recorder as aforesaid shall be eligible to serve in parliament for such borough, nor shall he be an alderman, councillor, or police magistrate of such borough: Provided nevertheless, That nothing in this act contained shall be construed to disqualify any such recorder from being appointed a barrister to revise any list of voters under the provisions of an act passed in the second year of his Majesty, intituled *An Act to amend the Representation of the People in England and Wales*, or from being eligible to serve in parliament, otherwise than is herein-before provided: Provided also, That in every borough in and for which a separate court of general or quarter sessions of the peace is now holden, and of which the present recorder or deputy recorder is a barrister of five years standing, such recorder or deputy recorder, being qualified as aforesaid, shall be continued or appointed recorder under the provisions of this act: Provided also, That in the case of sickness or unavoidable absence, the recorder of any borough shall be empowered, under his hand and seal, with the consent of the council of such borough, to appoint a deputy recorder, being a barrister of five years standing, to act for him at the quarter sessions of the peace then next ensuing, and no longer or otherwise.

CIV. Provided nevertheless, That no recorder or person assigned to keep the peace within any such borough shall be capable of acting as recorder or justice of the peace within such borough until he shall have taken the oaths provided to be taken by justices of the peace, except the oath as to qualification by estate, and until he shall have made before the mayor or before any two or more of the aldermen or councillors of such borough (who is and are hereby authorized and required to administer the same) a declaration in the following form; that is to say,

' I A. B. do hereby declare, That I will faithfully and impartially
' execute the office of recorder [or justice of the peace] for the
' borough of according to the best of my judgment and
' ability.'

CV. That the recorder of every borough shall hold once in every quarter of a year, or at such other and more frequent times as the said recorder in his discretion may think fit, or as his Majesty shall think fit to direct, a court of quarter sessions of the peace in and for such borough, of which court the recorder of such borough shall sit as the sole judge; and such court of quarter sessions of the peace shall be a court of record, and shall have cognizance of all crimes, offences, and matters whatsoever cognizable by any court of quarter sessions of the peace for counties in England, and the said recorder shall have power to do all things necessary for exercising such jurisdiction, notwithstanding his being such sole judge, as fully as any such last-mentioned court: Provided nevertheless, That no recorder, by virtue of his office, shall have power to make or levy any county rate, or rate in the nature of a county rate, or to grant any licence or authority to any person to keep an inn, alehouse, or victualling house, to sell exciseable liquors by retail, or to exercise any of the powers herein specially vested in the council of such borough

CVI. That in the absence of the recorder and deputy recorder the mayor shall be authorized and required, at the proper times appointed for the holding of such court of quarter sessions of the peace in and for such borough, to open the said court, and to adjourn over the holding of the same, and to respite all recognizances conditioned for appearing at the same, until such further day as such mayor then and there, and so from time to time, shall cause to be proclaimed: Provided nevertheless, that nothing in this act contained shall authorize or require any such mayor to sit as a judge of the said court for the trial of offenders, or to do any other act in the character of a judge of such court, save only in opening and adjourning the same, and respiting the said recognizances in manner aforesaid.

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c. 76.

Mayor, in the absence of the recorder and deputy recorder, may open and adjourn the court.

CVII. That after the first day of May one thousand eight hundred and thirty-six all powers and jurisdictions to try treasons, capital felonies, and all other criminal jurisdictions whatsoever granted or confirmed by any law, statute, letters patent, grant, or charter whatsoever, to any mayor, bailiff, alderman, recorder, or other corporate or chartered officer, or corporate or chartered justice of the peace whomsoever, in any borough, and all right of any body corporate in any borough, or any of the members thereof, by virtue of any law, statute, letters patent, grant, or charter whatsoever, to elect or nominate any justices to keep the peace in or for any borough, or by any members of any such corporate body to act as such justices of the peace in or for any of the last-named boroughs other than is herein declared, shall cease: Provided nevertheless, that nothing in this act contained shall be construed to restrain or prevent the holding of any court of gaol delivery or general or quarter sessions of the peace in and for any borough for which such court may now be holden, until the said first day of May, but every such court may be holden in like manner, and with the same powers, until the said first day of May, as if this act had not been passed.

Capital jurisdictions, and all other criminal jurisdictions in boroughs, other than are specified in this act, abolished.

CVIII. That from and after the passing of this act so much of all laws, statutes, and usages, and so much of all royal and other charters, grants, and letters patent heretofore granted to any borough or body corporate, whereby such borough, or any place within the precincts or liberties of the same, or such body corporate, or the freemen or inhabitants of the same, claims or claim to be exempted and released from the jurisdiction and office of the lord high admiral of England, or of the high court of the admiralty of England, or whereby any body corporate, or any mayor, bailiff, recorder, steward, or other chartered or corporate officer of any borough has or claims any thing belonging to the office of admiral, whether or not to be exercised by virtue of any commission to them or any of them to be directed, shall be and the same is hereby repealed: Provided nevertheless, that nothing in this act contained shall extend to alter or affect the jurisdiction and office of the lord warden in his office of admiral of the cinque ports: Provided also, that all suits and matters wherein before the passing of this act the rights of any salvors, or any droits or perquisites to the office of admiral belonging, were drawn into question, may be continued, heard, determined, and adjudicated upon in like manner as if this act had not passed.

Chartered admiralty jurisdictions abolished.

CIX. And whereas an act was passed in the thirty-eighth year of his late Majesty George the Third, intituled *An Act to regulate the Trial of Causes, Indictments, and other Proceedings which arise within the Counties of certain Cities and Towns Corporate within this Kingdom*, but certain cities and counties of cities were excepted out of the operation of the same: and whereas it is expedient to repeal in part the said exceptions; be it therefore enacted, That so much of the last-recited act as provides that nothing therein contained shall extend or be construed to extend to the city or county of the city of Bristol, or the city or county of the city of Chester, or to the criminal jurisdiction of the city of Exeter and county of the same city, shall be and the same is hereby repealed; and that the town of Berwick-upon-Tweed shall be taken to be a county of a town corporate, and to be within all the provisions of the last-recited

Certain exceptions in 38 G. 3, c. 52, repealed.

Berwick-upon-Tweed to be a county of a town.

No. V.
5 & 6 W. 4,
c. 76.

As to trial of
offences com-
mitted in coun-
ties of cities and
towns corpo-
rate.

Offenders com-
mitted to bor-
ough sessions
whose jurisdic-
tion is taken
away to be tried
in the adjoining
county.

County justices
to have jurisdic-
tion in all bor-
oughs which
have not a se-
parate court of
quarter sessions
of the peace
under this act.

Certain bor-
oughs not to be
assessed to
county rates.

act; and that after the first day of May in the year one thousand eight hundred and thirty-six, and until his Majesty shall be pleased to direct a commission of oyer and terminer and gaol delivery to be executed within any county of a city or town corporate, all bills of indictment for offences committed within such county of a city or town corporate shall be preferred and all proceedings upon such indictments shall be had as in the last-recited act is authorized to be done, and the counties of the cities and towns corporate named in the first column of the Schedule (C.) to this act annexed shall be considered as next adjoining to the county named in conjunction with the same respectively in the second column of the said Schedule (C.)

CX. That after the said first day of May one thousand eight hundred and thirty-six every person who shall then stand committed to take his trial at any court of gaol delivery, general or quarter sessions of the peace for any borough, charged with any offence which the recorder of such borough after the said first day of May will not have jurisdiction to try, may be lawfully removed and committed to the gaol or house of correction of the county in which or adjoining to which such borough is situated, there to remain and take his trial at the next court of quarter sessions for such county, if the offence is cognizable by a court of quarter sessions, and if not, then before the judges of oyer and terminer and gaol delivery at their next circuit; and all persons bound by recognizance to prosecute and give evidence against such offenders shall be bound to appear to prosecute and give their evidence at the court at which such offenders shall be tried as aforesaid; and all such recognizances and all depositions relating to such charges shall be transmitted to the proper officer of the court where such offenders shall be tried; and the sheriff, under-sheriff, gaolers, and other officers of the county in which such offenders shall be so tried are hereby authorized and required in every such case to receive every prisoner so committed to their custody, and him safely to keep until delivered by due course of law; and the judges of assize and others named in his Majesty's commissions of oyer and terminer and gaol delivery, or the justices for the county, as the case may be, in which such offenders shall be tried, are hereby authorized and required to hear and determine all such cases, and to order the payment of the usual and fit expences of the prosecutors and witnesses, and all other costs and expences which in like case may be directed to be paid by order of the court.

CXI. That after the said first day of May one thousand eight hundred and thirty-six the justices assigned or hereafter to be assigned to keep the peace in and for the county in which any borough is situated, to which his Majesty shall not have granted that a separate court of quarter sessions of the peace shall be holden in and for the same, shall exercise the jurisdiction of justices of the peace in and for such borough as fully as by law they and each of them can or ought to do in and for the said county; and no part of any borough in and for which a separate court of quarter sessions of the peace shall be holden shall be within the jurisdiction of the justices of any county from which such borough before the passing of this act was exempt, any law, statute, letters patent, charter, grant, or custom to the contrary notwithstanding.

CXII. That within ten days after the grant of a separate court of quarter sessions of the peace to any borough the council of such borough shall send a copy of such grant, sealed with the seal of the borough, to the clerk of the peace of the county in which such borough or any part thereof is situated; and after the grant of such court to any borough it shall not be lawful for the justices of the peace of any county wherein such borough or part of such borough is situate to assess any messuages, lands, tenements, or hereditaments within such borough to any county rate thereafter to be made, but every part of every such borough shall thenceforward be wholly free and discharged from contributing, otherwise than is herein-after provided, to any rate or assess-

ment of any kind of and for the county in which any part of such borough is situated: Provided nevertheless, that all arrears of such rates theretofore made may be levied and collected as if this act had not been passed.

No. V.
5 & 6 W. 4,
c. 76.

CXIII. And whereas by an act made in the seventh year of his late Majesty George the Fourth, intituled *An Act for improving the Administration of Criminal Justice in England and Wales*, it was enacted that all sums directed to be paid by virtue of that act in respect of felonies and misdemeanors therein enumerated, committed in liberties, franchises, cities, towns, and places which do not contribute to the payment of any county rate, should be paid as therein is directed; be it therefore enacted, That all sums directed to be paid by virtue of the last-recited act in respect of felonies and such misdemeanors as aforesaid, committed or supposed to have been committed in any borough in which a separate court of quarter sessions of the peace shall be holden, shall be paid out of the borough fund of such borough, any thing in the said act contained notwithstanding; and the order of court shall in every such case be directed to the treasurer of such borough instead of the treasurer of the county.

Boroughs to pay the expences of prosecutions at the assizes.

7 G. 4, c. 64.

CXIV. That the treasurer of every county in England and Wales shall keep an account of all costs arising out of the prosecution, maintenance, and punishment, conveyance and transport of all offenders committed for trial to the assizes in such county from any borough in which a separate court of quarter sessions of the peace shall be holden; and the treasurer of every such county shall, not more than twice in every year, send a copy of the said account to the council of each of the said boroughs, and shall make an order for payment of the same on the council of such borough; and the council of every such borough shall forthwith order the same, with all reasonable charges of making and sending such account, to be paid to the treasurer of such county out of the borough fund; and in case any difference shall arise concerning the said account, it shall be decided by the arbitration of a barrister to be named as is provided in the case of differences with respect to the payment of monies under contracts made by authority of an act made in the fifth year of his late Majesty King George the Fourth, intituled *An Act for amending an Act of the last Session of Parliament, relating to the building, repairing, and enlarging of certain Gaols and Houses of Correction, and for procuring Information as to the State of all other Gaols and Houses of Correction in England and Wales*: Provided that nothing herein contained shall be construed to alter or restrain the powers given by the last-mentioned act of contracting with the justices of the peace having authority or jurisdiction in and over any gaol or house of correction of the county wherein or where such borough is situated, or whereto it is adjacent, for the conveyance, support, and maintenance in such last-mentioned gaol or house of correction of prisoners committed thereto from such borough, save only that all such powers shall after the first day of May one thousand eight hundred and thirty-six be vested in the council of such borough in the name of the body corporate whose council they are, and in none other; and for the purpose of making such contracts as aforesaid the council of such borough, and none other, shall have power to make the orders required by the said last-mentioned act to be made by the justices of the borough at the borough sessions.

Treasurers of counties to keep an account of expences of prosecution of offenders sent by such boroughs for trial at the assizes, and make order on them for payment thereof.

In case of difference respecting such account the same to be referred to arbitration, as provided in 5 G. 4. c. 85.

CXV. That in every case in which it shall have been made to appear to the satisfaction of one of his Majesty's principal secretaries of state that there is in any borough a gaol or house of correction fit for the confinement of prisoners, the council of any borough shall have the same powers of contracting, in the name of the body corporate whose council they are, with any person or body corporate having the government or ordering of such last-mentioned gaol or house of correction, in like manner as is herein-before enacted concerning contracts with justices of the peace having authority or jurisdiction in and over county

Council may contract for committing prisoners to the gaol of another borough, if sufficient.

No. V.
5 & 6 W. 4,
c. 76.

gaols and houses of correction; and all the provisions of the last-recited act made in the fifth year of his late Majesty shall extend, or as nearly as may be, to all such contracts for the conveyance to and support and maintenance of offenders in such borough, gaol, or house of correction; and in case his Majesty shall have granted to the borough in which such gaol or house of correction shall be situated a separate court of quarter sessions of the peace, such offenders may be tried and sentenced by such court for all offences of which the court has cognizance, and punished accordingly; and all the provisions of the last-recited act made in the fifth year of his late Majesty shall extend as nearly as may be to the trial and punishment of such offenders, and to all acts necessary for such trial or consequent thereon.

Council of certain boroughs to have the same powers under the acts 4 G. 4, c. 64, and 5 G. 4, c. 85, as justices of the peace have at their sessions in counties.

CXVI. And whereas by an act passed in the fourth year of his late Majesty George the Fourth, intituled *An Act for consolidating and amending the laws relating to the building, repairing, and regulating of certain Gaols and Houses of Correction in England and Wales*, it was provided, that certain cities, towns, and places included in a certain Schedule (A.) to the said act annexed should be taken to be within the provisions of the same: and whereas by an act passed in the fifth year of his late Majesty George the Fourth, intituled *An act for amending an act of the last session of Parliament, relating to the building, repairing, and enlarging of certain Gaols and Houses of Correction, and for procuring Information as to the State of all other Gaols and Houses of Correction in England and Wales*, so much of the last-recited act as related to the cities of Canterbury, Lichfield, and Lincoln was repealed; be it therefore enacted, that the council of every borough named in the last-mentioned Schedule (A.) (except the cities of Canterbury, Lichfield, and Lincoln) shall have within their borough all the powers (except in hearing and determining appeals against convictions) which any justices of the peace assembled at their general or quarter sessions in any county in England have within the limits of their commission by virtue of the said last-recited acts or either of them, or as near thereto as the nature of the case will admit; and all things in the said last-recited acts or either of them provided to be done at any general or quarter sessions of the peace shall be done at some quarterly meeting of the council of such borough.

Boroughs to pay a proportion of the other county expenditure.

CXVII. That the treasurer of every county in England and Wales shall keep an account of all sums of money received in aid or on account of the county rate, and of the sum of money expended out of the county rate for other purposes than the costs arising out of the prosecution, maintenance, and punishment, conveyance and transport of offenders committed for trial in such county, and in the case of boroughs having a separate court of quarter sessions of the peace other than out of coroners' inquests, and shall, not more than twice in every year, send a copy of the said account to the council of every borough situate within such county in which a separate court of quarter sessions of the peace shall be holden, and which before the passing of the said act, intituled *An Act to settle and describe the Divisions of Counties and the Limits of Cities and Boroughs in England and Wales, so far as respects the Election of Members to serve in Parliament*, was chargeable with or liable to contribute in whole or in part to the county rate of such county, and shall make an order on the council of every such borough for the payment of such proportion of such sum as would have been chargeable, after deducting all sums of money received in aid of the county rate as aforesaid, if this act had not passed, upon such borough as the same shall be bounded according to the provisions of this act; and the council of such borough shall forthwith order the same, with all reasonable charges of making and sending the said account, to be paid to the treasurer of such county out of the borough fund: Provided that in case any difference shall arise concerning the last-mentioned account it shall be decided by the arbitration of a barrister to be named as is provided in the case of differences with respect to the payment of

2 & 3 W. 4,
c. 64.

monies under contracts made by authority of the said act made in the fifth year of his late Majesty King George the Fourth, intituled *An Act for amending an Act of the last Session of Parliament, relating to the building, repairing, and enlarging of certain Gaols and Houses of Correction, and for procuring Information as to the State of all other Gaols and Houses of Correction in England and Wales.*

No. V.
5 & 6 W. 4,
c. 76.
5 G. 4, c. 85.

CXVIII. That in every borough in which by charter or custom there is or ought to be holden a court of record for the trial of civil actions not regulated by the provisions of any local act of parliament, or in which, at the time of the passing of this act, a barrister of five years' standing shall not act as judge or assessor, the recorder, or in the absence of the recorder, or in case there shall not be a recorder, such officer of the borough as by the charter constituting such court or by custom shall be the judge of such court, shall continue to be and act as such judge; and the council of such borough in every case, whether such court be regulated by the provisions of a local act of parliament or otherwise, shall have power for that purpose to appoint the necessary officer, other than the recorder, before whom such court is to be holden; and every such judge or assessor, other than the mayor, shall hold his office during his good behaviour; and the judge of every such court shall hold the said court at such times and places, and with such rules of practice, and with the same powers and jurisdiction as belonged to the said court at the time of passing this act: Provided always, that in every case in which such court had not before the passing of this act authority to try such actions as are herein-after next mentioned any such court in which a barrister of five years' standing shall act as judge or assessor shall have authority to try actions of assumpsit, covenant, and debt, whether the debt be by specialty or on simple contract, and all actions of trespass or trover for taking goods and chattels, provided the sum or damages sought to be recovered shall not exceed twenty pounds, and all actions of ejectment between landlord and tenant wherein the annual rent of the premises of which possession is sought to be recovered shall not exceed twenty pounds, and upon which no fine shall have been reserved or made payable: Provided also, that every such judge respectively from time to time may make rules for regulating the practice of such court over which he presides, but so that no such rules shall be of force until they shall have been allowed and confirmed by three or more judges of the superior courts of common law at Westminster: Provided also, that the jurisdiction of every court of record for the trial of civil actions within any borough shall be extended so far as the metes and bounds of every such borough as the same shall be and be declared under the provisions of this act: Provided also, that no action shall be tried by any such judge, wherein the title to land, whether freehold, copyhold, or leasehold, or other tenure whatsoever, or to any tithe, toll, market, fair, or other franchise shall be in question, in any court which before the passing of this act had not authority to try actions in which such titles as last aforesaid were in question; and in case it shall appear in the course of any action in such court as last aforesaid, or shall be made to appear upon oath to such court as last aforesaid, that any such title as last aforesaid is in question in such action, that then the jurisdiction of such court as last aforesaid in the matter of such action shall cease, and it shall be in the discretion of the court to award costs against the party commencing the same.

Borough courts of record to be holden as heretofore, but in certain cases with extended jurisdiction.

Proviso.

CXIX. That the council of every borough in which there shall be holden a court of record for the trial of civil actions as aforesaid shall appoint a registrar of such court, except in boroughs where the town clerk acts as such registrar, and such other officers and servants as are necessary for carrying on the business and executing the process of such court; provided that no registrar or other officer of such court shall, by himself or any partner, or by his or their clerks, practise as an attorney in such court, nor shall any such partner or clerk act as agent for any other attorney in such court: Provided also, That, unless dis-

Council to appoint registrar and other necessary officers of the court.

No. V.
5 & 6 W. 4,
c. 76.

Existing suits
not to abate by
reason of the
change of juris-
diction.

Who to be
jurors.

6 G. 4, c. 50.

Summoning of
jurors, &c.

Fine on jurors
for non-attend-
ance.

Members of the
council, &c.
exempt from
serving on juries ;
burgesses of boroughs which have quarter sessions
exempt from juries of county
quarter sessions.

qualified as herein provided, every attorney of his Majesty's superior courts at Westminster shall have full liberty to practise as an attorney in every such court.

CXX. That no suit commenced in any court of record in any borough before the first day of May one thousand eight hundred and thirty-six shall abate by reason of any change that shall have been made in the constitution of such court by the provisions of this act, but that the same may continue and be heard and determined as if it had been commenced before such judge.

CXXI. That every person, being a burgess of any borough wherein there shall be a separate court of sessions of the peace, or a court of record for the trial of civil actions, (unless he shall be exempt or disqualified otherwise than in respect of property from serving on juries by virtue of an act passed in the sixth year of the reign of King George the Fourth, intituled *An Act for consolidating and amending the Laws relative to Jurors and Juries*;) shall be qualified and liable to serve on grand juries in such borough, and also upon juries for the trial of all issues joined in any court of quarter sessions of the peace, and in any court of record for the trial of civil actions triable within the borough of which such person shall be a burgess ; and the clerk of the peace of every such borough shall give public notice of the time and place of holding every such quarter sessions of the peace, ten days at the least before the holding thereof, and shall, seven days at the least before the holding thereof, cause to be summoned a sufficient number of persons, being qualified and liable as aforesaid, to serve as grand jurors at such sessions ; and the clerk of the peace and registrar of the court of record respectively shall also cause to be summoned not less than thirty-six nor more than sixty persons so qualified and liable as aforesaid to serve as jurors at every such sessions, and at the holding of every such court of record for the trial of causes, in case there shall be any cause then to be tried ; and such summons shall be made by showing to the person to be summoned, or in case he shall be absent from the usual place of his abode by leaving with some person therein inhabiting, notice under the hand of such clerk of the peace or registrar respectively containing the substance of such summons ; and such clerk of the peace shall make out a list of the names of such persons so summoned as grand jurors, and the clerk of the peace and registrar respectively shall also make out a panel of such persons so summoned other than grand jurors, and such list and panel shall respectively contain therein the Christian names and surnames, places of abode, and descriptions of the several persons therein named ; and if any person, having been duly summoned to attend on any jury, shall not attend in pursuance of such summons, or, being thrice called, shall not answer to his name, or after his appearance wilfully withdraw himself from the presence of the court, the court shall impose such fine upon every person so making default (unless some reasonable excuse shall be proved to the satisfaction of the court) as the court shall think meet ; and if any person on whom such fine shall be imposed shall refuse to pay the same to the person who shall be authorized by the court to receive the same, it shall be lawful for the court, then or at its next sitting, by order of the court, signed by the clerk of the peace or registrar respectively, to cause to be levied, by distress and sale of the goods of the person on whom such fine shall have been imposed, every such fine, and the reasonable charges of such distress and sale ; and every fine so received shall be paid to the treasurer of the borough, to be by him carried to the account of the borough fund herein-before mentioned. Provided nevertheless, That no person shall be summoned to serve as a juror at such sessions or court of record oftener than once in one year.

CXXII. That after the passing of this act every member of the council for the time being of every borough, and every justice assigned to keep the peace therein, and the treasurer and town clerk for the time being

of every such borough, shall be exempt and disqualified from serving on any jury summoned within such borough respectively, and exempt from serving on any jury summoned to serve in the county wherein such borough is situate; and all burgesses of every borough in and for which a separate court of quarter sessions of the peace shall be holden shall be exempt from serving on any jury summoned for the trial of issues joined in any court of general of quarter sessions of the peace in the county wherein such borough is situate.

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5 & 6 W. 4,
c. 76.

CXXIII. That after the passing of this act no person in any borough shall continue to be exempt from serving on juries in any of the King's courts of record at Westminster, or in the superior courts, civil or criminal, of the counties palatine of Lancaster and Durham, or in any court of assize, nisi prius, oyer and terminer, gaol delivery, or sessions of the peace, or in any other of the King's courts, by virtue of any writ, grant, charter, prescription, or otherwise; and so much of an act made in the sixth year of the reign of his late Majesty King George the Fourth, intituled *An Act for consolidating and amending the Laws relative to Juries*, as provides that all persons in any borough exempt from serving upon juries in any of the courts aforesaid, by virtue of any prescription, charter, grant, or writ, shall continue to have and enjoy such exemption in as ample a manner as before the passing of that act, and shall not be inserted in the lists thereafter mentioned, shall be and the same is hereby repealed.

All chartered exemptions from serving on juries abolished.

6 G. 4, c. 50, in part repealed.

CXXIV. That the council of every borough shall and they are hereby required, within six calendar months next after their election, to make and settle a table of the fees which shall be taken by the clerk of the peace in those boroughs in which a separate court of quarter session of the peace shall be holden, and in those boroughs to which a commission of the peace shall have been granted, a table of the fees to be taken by the clerk to the justices, and in those boroughs in which there shall be a court of record, a table of the fees to be taken by the registrar and officers of such court; and such tables of fees shall be submitted to one of his Majesty's principal secretaries of state; and when such tables of fees shall be confirmed and allowed by such secretary of state, either as such table shall have been submitted to him, or with such alterations, additions, or abatements as he shall think proper, the fees therein mentioned may thenceforth be lawfully taken by the person therein named to be entitled thereunto; and it shall be lawful for the council of such borough, from time to time, as occasion may require, to make new tables of fees to be taken instead of the fees contained in the tables which shall have been made as aforesaid, which new table shall be confirmed and allowed in the manner herein-before mentioned, otherwise the same shall be of no validity; and that until tables of the fees so to be taken in any such borough shall have been made and confirmed as aforesaid it shall be lawful for such clerk of the peace at the quarter sessions for any such borough, and such clerk to the justices, to take the fees authorized by the table for the time being to be taken by the clerk of the peace at the quarter sessions and clerk to the justices respectively for the county within or adjoining to which such borough is situated, and for the registrar and officers of such court of record to take the fees usually taken by them before the passing of this act.

Fees payable to the clerk of the peace, clerk to the magistrates, and registrar and officers of the court of record.

CXXV. That the town clerk of every borough shall cause a true copy of the tables of fees in force for the time being to be hung up in a conspicuous part of the room in which the business of his office is transacted, and also in the room wherein the justices of the peace of such borough shall sit for transacting their business, and also in the room wherein the court of quarter sessions of the peace for the borough shall be held, and also in the court of record of the said borough.

Table of fees to be hung up.

CXXVI. That when by any act any penalties or forfeitures are or shall hereafter be made recoverable in a summary manner before any justice or justices of the peace, and by such act respectively the same are or shall be limited and made payable to his Majesty, or to any body

Application of penalties.

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5 & 6 W. 4,
c. 76.

corporate, or to any person whomsoever, save and except the informer, who shall sue for the same, or any party aggrieved, in every such case the same, if recovered and adjudged before any justice of any borough in which a separate court of quarter sessions of the peace shall be holden as aforesaid, shall, notwithstanding any thing in such act respectively contained, be recovered for and adjudged to be paid to the treasurer of such borough for the time being, to the credit and on account of the borough fund of such borough; and no such penalty or forfeiture, or share of such penalty or forfeiture, shall in any case be recovered by or adjudged to be paid to any other person than the said treasurer, unless such person be the informer or the party aggrieved: Provided always, That nothing herein contained shall extend to any penalties or forfeitures recovered under any act relating to the customs, excise, and post office, or to trade or navigation, or any branch of his Majesty's revenue.

Limitation of
time for prosecution of
offences punishable
on summary conviction.

CXXVII. And for the more effectual prosecution of offences punishable upon summary conviction by virtue of this act, be it enacted, That the prosecution for every such offence shall be commenced within three calendar months after the commission of the offence, and not otherwise; and that where any person shall be charged on the oath of a credible witness with any such offence before a justice of the peace the justice may summon the party charged to appear before any two justices of the peace acting in and for the borough in which such offence shall have been committed, at a time and place to be named in such summons: and if such party shall not appear accordingly the justices of the peace then and there present (upon proof of the due service of the summons by delivering a copy thereof to the party, or by delivering such copy at the party's usual place of abode to some inmate thereat, and explaining the purport thereof to such inmate,) may either proceed to hear and determine the case in the absence of the party, or may issue their warrant for apprehending, and bringing such party before them, as they shall think proper.

Power to summon witnesses.

CXXVIII. That it shall be lawful for any justice of the peace acting in and for any borough to issue his summons requiring any person to appear before any such justices of the peace for the purpose of giving evidence touching any offence against this act: and if any person so summoned shall neglect or refuse to appear at the time and place appointed by such summons, and no reasonable excuse for his absence shall be proved before the justices of the peace then and there present, or if any person appearing in obedience to such summons shall refuse to be examined on oath touching any such offence by the justices then and there present, every person so offending shall, on conviction thereof before the said justices, or any other justices of the peace, forfeit and pay such sum of money not exceeding five pounds as to the convicting justices shall seem meet; and no person, although liable to the rate contributing to the borough fund of any borough, shall be deemed an incompetent witness in proof of any offence against this act by reason of any penalty or forfeiture for such offence being applicable to the use of such borough fund; and no justice of the peace shall be disabled from acting in the execution of this act by reason of his being liable to the rate contributing to the borough fund of any borough.

No witness or justice to be incompetent on the ground of rateability.

Payment of penalties;

CXXIX. That the justices of the peace by whom any person shall be summarily convicted and adjudged to pay any sum of money for any offence against this act may adjudge that such person shall pay the same either immediately or within such period as the said justices shall think fit; and in case such sum of money shall not be paid at the time so appointed the same shall be levied by distress and sale of the goods and chattels of the offender, with the reasonable charges of such distress; and for want of sufficient distress such offender shall be imprisoned, with or without hard labour, in the common gaol or house of correction, as to the convicting justices shall seem meet, for any term not exceeding one calendar month where the sum to be paid shall

may be levied by distress;

or offender imprisoned.

No. V.
5 & 6 W. 4,
c. 76.

Form of conviction.

CXXXII. That no conviction, order, warrant, or other matter made or purporting to be made by virtue of this act shall be quashed for want of form, or be removed by certiorari or otherwise into any of his Majesty's courts of record at Westminster; and no warrant of commitment shall be held void by reason of any defect therein, provided that it be therein alleged that it is founded on a conviction, and there be a good and valid conviction to sustain the same; and where any distress shall be made for levying any money by virtue of this act the distress itself shall not be deemed unlawful, nor the party making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, warrant of distress, or other proceedings relating thereto, nor shall the party distraining be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him, but the person aggrieved by such irregularity may recover full satisfaction for the special damage, if any, in an action upon the case.

No. V.
5 & 6 W. 4,
c. 76.

Venue in pro-
ceedings
against persons
acting under
this act.

Notice of ac-
tion.

General issue.

Tender of
amends, &c.

Jurisdiction of
the cinque ports
preserved.

Jurisdiction of
the cinque ports
further pre-
served.

51 G. 3, c. 36.

CXXXIII. And for the protection of persons acting in the execution of this act, be it enacted, That all actions and prosecutions to be commenced against any person for any thing done in pursuance of this act shall be laid and tried in the county where the fact was committed, and shall be commenced within six calendar months after the fact committed, and not otherwise; and notice in writing of such action, and of the cause thereof, shall be given to the defendant one calendar month at least before the commencement of the action; and in any such action the defendant may plead the general issue, and give this act and the special matter in evidence at any trial to be had thereupon; and no plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into court after such action brought by or on behalf of the defendant; and if a verdict shall pass for the defendant, or the plaintiff shall become nonsuit, or discontinue any such action after issue joined, or if upon demurrer or otherwise judgment shall be given against the plaintiff, the defendant shall recover his full costs as between attorney and client, and have the like remedy for the same as any defendant hath by law in other cases.

CXXXIV. That the courts of quarter sessions of the peace of the towns and ports of Hastings, Sandwich, Dover, and Hythe, and of the ancient town of Rye, or of such of the said towns and ports and ancient town to which his Majesty shall grant a separate court of quarter sessions of the peace, shall have jurisdiction over offences and matters committed, arising, and happening as well within the boundaries of such towns and ports and ancient town respectively as within the ancient members and liberties not being corporate of the same respectively, and also within the towns named in the schedule to this act which are ancient corporate members and liberties of the said towns and ports and ancient town respectively, and to which his Majesty shall not grant a separate court of quarter sessions of the peace; and also any or either of the said towns and ports of Hastings, Sandwich, Dover, and Hythe, and ancient town of Rye, to which his Majesty shall not grant a separate court of quarter sessions of the peace, and their or its members and liberties, shall for all purposes relating to the jurisdiction of courts of quarter sessions of the peace be respectively within the jurisdiction of the courts of quarter sessions of the peace of the nearest other of the said towns and ports or ancient town to which his Majesty shall grant a separate court of quarter sessions of the peace; and the recorders, clerks of the peace, and coroners of the said towns and ports and ancient town respectively, or of such of them to which his Majesty shall grant a separate court of quarter sessions of the peace respectively, shall and may have and exercise the same jurisdiction, powers, and authorities within all places within or subject to the jurisdiction of such courts respectively, as within the said ancient towns and ports and ancient town respectively of which they are or may be appointed recorders, clerks of the peace, or coroners.

CXXXV. That the justices of the peace of the towns and ports of Hastings, Sandwich, Dover, and Hythe, and of the ancient town of Rye, or of such of the said towns and ports and ancient town as shall have justices of the peace assigned to them by virtue of this act, shall and may have and exercise the same jurisdiction, powers, and authorities over offences and matters committed, arising, and happening within the ancient members and liberties not being corporate of such towns and ports and ancient town respectively, as such justices shall and may have and exercise within the towns and ports and ancient town for which they are or may be respectively justices of the peace; and also his Majesty's justices of the peace, acting under the authority of a commission or commissions, issued by virtue of an act passed in the fifty-first year of the reign of his late Majesty King George the Third, intituled *An Act to facilitate the Execution of Justice within the Cinque Ports*, shall and may have and exercise all the jurisdiction, powers, and authorities given

to such justices by such act of parliament, as well within the members and liberties not being corporate of the said towns and ports and ancient town respectively as within the said towns named in the schedules to this act being corporate members and liberties thereof, or any of them, or any of the said towns and ports and ancient town which shall not have justices of the peace assigned to them by virtue of this act: Provided always, that nothing herein contained shall affect the liability of juries in the said towns and ports and ancient towns thereof, not being corporate, to serve on juries at quarter sessions as heretofore.

No. V.
5 & 6 W. 4,
c. 76.

Proviso as to
juries in the
cinque ports
liberties.

CXXXVI. Provided always, that nothing contained in this act shall alter or affect certain letters patent bearing date in the fifth year of the reign of his Majesty King Edward the Sixth, founding a free grammar school at Louth, in the county of Lincoln, and creating a body corporate for the management and regulation thereof, and for the benefit of twelve poor persons mentioned in the said letters patent, by the name of the "warden and six assistants of the town of Louth and free school of King Edward the Sixth in Louth;" but that the said warden and assistants shall continue and be a body corporate with perpetual succession under the provisions of the said letters patent, for the management and regulation of the said school and the purposes aforesaid only, and shall remain and be seised of and entitled to all lands, tolls, tenements, and hereditaments now vested in them for the purposes therein mentioned, in the same manner to all intents and purposes as if this act had not been passed.

Act not to
affect letters
patent found-
ing a grammar
school at
Louth.

CXXXVII. That nothing in this act contained shall be construed to alter or affect the rights or privileges, duties or liabilities, of the chancellor, masters, and scholars of the universities of Oxford or Cambridge respectively, as by law possessed under the respective charters of the said universities or otherwise, or to entitle any person to be enrolled a citizen of the city of Oxford or burgess of the borough of Cambridge, by reason of his occupation of any rooms, chambers, or premises in any of the colleges or halls of the universities of Oxford or Cambridge, or either of them, or to compel any resident member of either of the said universities to accept any office in or under the body corporate of the mayor and citizens of the city of Oxford, or of the mayor and burgesses of the borough of Cambridge, or to authorize the levy of any rate within the precincts of the said universities, or of any of the colleges or halls of the same, which now by law cannot be levied therein.

Saving of the
rights of the
universities of
Oxford and
Cambridge.

CXXXVIII. That all the jurisdictions and authorities now exercised in and over the precinct or close of any cathedral shall be continued, as if this act had not been passed, concurrently with the jurisdiction and authority of the justices of the peace of the borough within which such close is situated: and that nothing herein contained shall affect or interfere with the rights and privileges granted by charter or act of parliament to the university of Durham.

Not to affect
jurisdiction
over precincts
of cathedrals,
nor rights of
university of
Durham.

CXXXIX. That in every case in which any body corporate, or any particular class, number, or description of members, or the governing body of any body corporate, now is or are in their corporate capacity, and not as charitable trustees, according to the meaning and provisions of this act, seised or possessed of any manors, lands, tenements, or hereditaments whereunto any advowson or right of nomination or presentation to any benefice or ecclesiastical preferment is appendant or appurtenant, or of any advowson in gross, or hath or have any right or title to nominate or present to any benefice or ecclesiastical preferment, every such advowson and every such right of nomination and presentation shall be sold at such time and in such manner as the commissioners appointed by his Majesty to consider the state of the established church in England and Wales with reference to ecclesiastical duties and revenues may direct, so that the best price may be obtained for the same; and it shall be lawful for the council of such body corporate, and they are hereby authorized and required, with the consent of the

In cases where
bodies corpo-
rate are seised
in their corpo-
rate capacity of
advowsons, &c.
the same may
be sold as
ecclesiastical
commissioners
may direct.

No. V.
5 & 6 W. 4,
c. 76.

Vacancy arising before sale to be supplied by bishop of the diocese.

Periods connected with first registration and election may be deferred by order in council.

The king empowered to grant charters of incorporation.

Interpretation clause.

said commissioners or any three or more of them, in writing under their hands, to convey and assure under the common seal of such body corporate such advowson or such right of nomination or presentation as aforesaid to the purchaser or purchasers thereof respectively, his or their heirs, executors, administrators, and assigns, or to such uses as he or they shall direct; and the proceeds of every such sale shall be paid to the treasurer of the borough, whose receipt shall be a sufficient and effectual discharge to the purchaser or purchasers to whom the same shall be given for the amount of his or their purchase money, and shall be by him invested in government securities for the use of the body corporate, and the annual interest payable thereon shall be carried to the account of the borough fund: Provided always, That in any case of vacancy arising before any such sale shall have taken place and been completed, such vacancy shall be supplied by the presentation or nomination of the bishop or ordinary of the diocese in which such benefice or ecclesiastical preferment is situated.

CXL. And whereas it may happen that the several provisions of this act cannot be carried into effect within the several periods in the present year herein-before specified and limited in that behalf; be it therefore enacted, That it shall be lawful for his Majesty, if he shall think fit, by the advice of his privy council, to order any days and times before the first day of February next for doing the several matters required or authorized by this act to be done, in lieu of the several days and times for the present year herein-before specified, or any of them; and in such case all matters mentioned in such order shall be done on and within such days and times as shall be mentioned respectively in that behalf in such order, as if the days and times mentioned in such order had in every instance been mentioned in this act instead of the days and times herein-before respectively mentioned in that behalf, and not otherwise: Provided always, That nothing herein contained shall authorize his Majesty to appoint any days or times other than are herein-before specified for any matters required or authorized by this act to be done after the expiration of this present year: Provided also, That no person shall be entitled to be enrolled in the burgess roll of any borough in this present year unless he would have been entitled on the last day of August in this year to have his name included in some overseers list, if such list had been made out on the fifth day of September in this year.

CXLI. And whereas sundry towns and boroughs of England and Wales are not towns corporate, and it is expedient that several of them should be incorporated; be it enacted, That if the inhabitant householders of any town or borough in England and Wales shall petition his Majesty to grant to them a charter of incorporation, it shall be lawful for his Majesty, by any such charter, if he shall think fit, by advice of his privy council, to grant the same, to extend to the inhabitants of any such town or borough within the district to be set forth in such charter the powers and provisions in this act contained: Provided nevertheless, That notice of every such petition, and of the time when it shall please his Majesty to order that the same be taken into consideration by his privy council, shall be published by royal proclamation in the *London Gazette* one month at least before such petition shall be so considered.

CXLII. That in the construction of this act the word "Borough" shall be construed to mean city, borough, port, cinque port, or town corporate, named in one of the said schedules (A.) and (B.); and the words "Body Corporate" shall be construed to mean body corporate named in one of the said schedules (A.) and (B.); and the word "Burgess" shall be construed to mean citizen in the case of a city; and the word "County" shall be construed to mean county, riding, parts, liberty, or division; and the word "Trustees" shall be construed to mean trustees, commissioners, or directors, or the persons charged with the execution of a trust or public duty, by whatever name they are designated; and the word "Parish" shall be construed to mean parish,

township, vill, hamlet, chapelry, tithing, district, precinct, or place maintaining its own poor; and the words "Overseers of the Poor" shall be construed to mean all persons who execute the duties of overseers of the poor; and that in all things herein-before provided to be done, until the first election of councillors in any borough under this act shall have been declared, the word "Mayor" shall be construed to mean the chief officer of a borough, by whatever name he is now called; and in describing any person or thing, any word importing the singular number shall be construed to mean also several persons or things respectively, unless there be something in the subject or context repugnant to such construction; and that no misnomer or inaccurate description of any person, body corporate, or place named in any schedule to this act annexed, or in any roll, list, notice, or voting paper required by this act, shall hinder the full operation of this act with respect to such person, body corporate, or place, provided that the description of such person, body corporate, or place be such as to be commonly understood.

No. V.
5 & 6 W. 4,
c. 76.

SCHEDULES TO WHICH THIS ACT REFERS.

SCHEDULE (A).

ENGLAND AND WALES.

BOROUGHES WHICH ARE TO HAVE A COMMISSION OF THE PEACE.

SECTION I

PARLIAMENTARY BOUNDARIES TO BE TAKEN UNTIL ALTERED BY PARLIAMENT.

Borough.	Wards.	Aldermen.	Councillors.	Style of Corporate Body.
Aberystwith . .	0	4	12	Mayor and burgesses of the town, borough, and liberty of Aberystwith.
Abingdon	0	4	12	Mayor, bailiffs, and burgesses of the borough of Abingdon.
Barnstaple	2	6	18	Mayor, aldermen, and burgesses of the borough and parish of Barnstaple in the county of Devon.
Bath	7	14	42	Mayor, aldermen, and citizens of the city of Bath.
Bedford	2	6	18	Mayor, bailiffs, and burgesses of the town of Bedford.
Berwick-upon-Tweed	3	6	18	Mayor, bailiffs, and burgesses of the borough of Berwick-upon-Tweed.
Bridgewater	2	6	18	Mayor, aldermen, and burgesses of the borough of Bridgewater.
Bridport	2	6	18	Bailiffs and burgesses of the borough of Bridport.
Bristol	10	16	48	Mayor, burgesses, and commonalty of the city of Bristol.
Bury St. Edmund's	3	6	18	Alderman and burgesses of Bury St. Edmunds in the county of Suffolk.
Cambridge	5	10	30	Mayor, bailiffs, and burgesses of the borough of Cambridge.
Canterbury	3	6	18	Mayor and commonalty of the city of Canterbury.
Cardiff	2	6	18	Bailiffs, aldermen, and burgesses of the town of Cardiff.
Carlisle	5	10	30	Mayor, aldermen, bailiffs, and citizens of the city of Carlisle.
Carmarthen	3	6	18	Mayor, burgesses, and commonalty of the borough of Carmarthen.
Carnarvon	2	6	18	Mayor, bailiffs, and burgesses of the town and borough of Caernarvon.
Chester	5	10	30	Mayor and citizens of the city of Chester.
Chichester	2	6	18	Mayor, aldermen, and citizens of the city of Chichester.
Colchester	3	6	18	Mayor and commonalty of the borough of Colchester.
Dartmouth	0	4	12	Mayor, bailiffs, and burgesses of the borough of Clifton Dartmouth Hardness in the county of Devon.
Denbigh	0	4	12	Aldermen, bailiffs, and burgesses of the borough of Denbigh.
Derby	6	12	36	Mayor, aldermen, and burgesses of the borough of Derby.
Devizes	2	6	18	Mayor and burgesses of the borough of Devizes.

Borough.	Wards.	Aldermen.	Councillors.	Style of Corporate Body.
Dorchester	0	4	12	Mayor, bailiffs, aldermen, and burgesses of the borough of Dorchester in the county of Dorset.
Dover	3	6	18	Mayor, jurats, and commonalty of the town and port of Dover.
Durham	3	6	18	Mayor, aldermen, and commonalty of the city of Durham and Framwelgate.
Evesham	0	4	12	Mayor, aldermen, and burgesses of the borough of Evesham.
Gateshead.....	3	6	18	Boroughholders and freemen of the borough of Gateshead.
Gloucester	3	6	18	Mayor and burgesses of the city of Gloucester in the county of the city of Gloucester.
Guildford	0	4	12	Mayor and burgesses of the town of Guildford in the county of Surrey.
Harwich	0	4	12	Mayor and burgesses of the borough of Harwich.
Haverfordwest..	0	4	12	Mayor, sheriffs, bailiffs, and burgesses of the county of the town of Haverfordwest, or of the town and county of the town of Haverfordwest.
Hereford	3	6	18	Mayor, aldermen, and citizens of the city of Hereford.
Hertford	0	4	12	Mayor, aldermen, and commonalty of the borough of Hertford.
Ipswich.....	5	10	30	Bailiffs, burgesses, and commonalty of the town or borough of Ipswich.
Kendal	3	6	18	Mayor, aldermen, and burgesses of the borough of Kirby-in-Kendal in the county of Westmorland.
Kidderminster..	3	6	18	High bailiff and commonalty of the borough of Kidderminster in the county of Worcester.
Kingston-upon-Hull	7	14	42	Mayor and burgesses of the town or borough of Kingston-upon-Hull.
King's Lynn....	3	6	18	Mayor and burgesses of the borough of Lynn Regis.
Leeds.....	12	16	48	Mayor, aldermen, and burgesses of the borough of Leeds in the county of York.
Leicester	7	14	42	Mayor, bailiff, and burgesses of the borough of Leicester.
Leominster	0	4	12	Bailiffs and burgesses of the borough of Leominster.
Lichfield	2	6	18	Bailiff and citizens of the city of Lichfield.
Liverpool	16	16	48	Mayor, bailiffs, and burgesses of the borough of Liverpool.
Macclesfield....	6	12	36	Mayor, aldermen, and burgesses of the borough of Macclesfield.
Monmouth	0	4	12	Mayor, bailiffs, and commonalty of the town and borough of Monmouth.
Neath	0	4	12	Portreeve, aldermen, and burgesses of the borough of Neath.
Newark.....	3	6	18	Mayor and aldermen of the borough of Newark in the county of Nottingham.
Newcastle-under-Lyne	2	6	18	Mayor, bailiffs, and burgesses of Newcastle-under-Lyne in the county of Stafford.
Newcastle-upon-Tyne	7	14	42	Mayor and burgesses of the town of Newcastle-upon-Tyne in the county of the town of Newcastle-upon-Tyne.
Newport, Monmouth	2	6	18	Mayor, aldermen, and burgesses of the borough of Newport.
Newport (Isle of Wight).....	2	6	18	Mayor, aldermen, and chief burgesses of the borough of Newport in the Isle of Wight in the county of Southampton.

Borough.	Wards.	Aldermen.	Councillors.	Style of Corporate Body.
Northampton ..	3	6	18	Mayor, bailiffs, and burgesses of Northampton.
Norwich	8	16	48	Mayor, sheriffs, citizens, and commonalty of the city of Norwich.
Nottingham	7	14	42	Mayor and burgesses of the town of Nottingham.
Oxford	5	10	30	Mayor, bailiffs, and commonalty of the city of Oxford in the county of Oxford.
Pembroke.....	2	6	18	Mayor, bailiffs, and burgesses of the town and borough of Pembroke.
Poole.....	2	6	18	Mayor, bailiffs, burgesses, and commonalty of the town of Poole.
Portsmouth	7	14	42	Mayor, aldermen, and burgesses of the borough of Portsmouth in the county of Southampton.
Preston	6	12	36	Mayor, bailiffs, and burgesses of the borough of Preston in the county palatine of Lancaster.
Reading	3	6	18	Mayor, aldermen, and burgesses of the borough of Reading in the county of Berks.
Ripon	0	4	12	Mayor, burgesses, and commonalty of the borough of Ripon in the county of York.
Rochester.....	3	6	18	Mayor and citizens of the city of Rochester in the county of Kent.
St. Albans	0	4	12	Mayor and aldermen and burgesses of the borough of Saint Albans in the county of Hertford.
Sarum, New....	3	6	18	Mayor and commonalty of the city of New Sarum in the county of Wilts.
Scarborough.. .	2	6	18	Bailiffs and burgesses of the town of Scarborough.
Shrewsbury	5	10	30	Mayor, aldermen, and burgesses of the town of Shrewsbury in the county of Salop.
Southampton ..	5	10	30	Mayor, bailiffs, and burgesses of the town of Southampton.
Stafford.....	2	6	18	Mayor, aldermen, and burgesses of the borough of Stafford.
Stamford	2	6	18	Mayor, aldermen, and capital burgesses of the town or borough of Stamford in the county of Lincoln.
Stockport	7	14	42	Mayor, aldermen, and burgesses of the borough of Stockport.
Sudbury	0	4	12	Mayor, aldermen, and burgesses of the borough of Sudbury.
Sunderland	7	14	42	Mayor, aldermen, and commonalty of the borough of Sunderland.
Swansea	3	6	18	Portreeve, aldermen, and burgesses of the borough of Swansea.
Tiverton	3	6	18	Mayor and burgesses of the town and parish of Tiverton in the county of Devon.
Truro.....	2	6	18	Mayor, aldermen, and capital burgesses of the borough of Truro.
Warwick	2	6	18	Mayor, aldermen, and burgesses of the borough of Warwick.
Wells.....	0	4	12	Mayor, masters, and burgesses of the city or borough of Wells in the county of Somerset.
Weymouth and Melcombe Regis	2	6	18	Mayor, aldermen, bailiffs, burgesses, and commonalty of the borough and town of Weymouth and Melcombe Regis in the county of Dorset.
Wigan	5	10	30	Mayor, aldermen, and burgesses of the borough of Wigan.
Winchester	3	6	18	Mayor, bailiffs, and commonalty of the city of Winchester.

Borough.	Wards.	Aldermen.	Councillors.	Style of Corporate Body.
Windsor	2	6	18	Mayor, bailiffs, and burgesses of the borough of New Windsor in the county of Berks.
Worcester	6	12	36	Mayor, aldermen, and citizens of the city of Worcester.
Yarmouth, Great.	6	12	36	Mayor, aldermen, burgesses, and commonalty of the borough of Great Yarmouth in the county of Norfolk.

SECTION 2.

MUNICIPAL BOUNDARIES TO BE TAKEN UNTIL ALTERED BY PARLIAMENT.

Andevor	0	4	12	Bailiff, approved men, and burgesses of the borough of Andevor.
Banbury	0	4	12	Mayor, aldermen, and burgesses of the borough of Banbury in the county of Oxford.
Beverley	2	6	18	Mayor, aldermen, and burgesses of the borough of Beverley in the county of York.
Bewdley	0	4	12	Bailiffs, burgesses, and inhabitants of the town and borough of Bewdley.
Bideford	0	4	12	Mayor, aldermen, and capital burgesses of the borough, town, and manor of Bideford in the county of Devon.
Boston	3	6	18	Mayor, aldermen, and burgesses of the borough of Boston.
Brecon	0	4	12	Bailiff, aldermen, and burgesses of the borough of Brecon.
Bridgnorth	0	4	12	Bailiffs, aldermen, and burgesses of the borough of Bridgnorth.
Clitheroe	0	4	12	Bailiffs and burgesses of the borough of Clitheroe in the county of Lancaster.
Chesterfield	0	4	12	Mayor, aldermen, and burgesses of the borough of Chesterfield.
Congleton	3	6	18	Mayor, aldermen, and burgesses of the borough of Congleton in the county of Chester.
Coventry	6	12	36	Mayor, bailiffs, and commonalty of the city of Coventry.
Deal	2	6	18	Mayor, jurats, and commonalty of the town of Deal in the county of Kent.
Doncaster	3	6	18	Mayor, aldermen, and burgesses of the borough of Doncaster in the county of York.
Exeter	6	12	36	Mayor, bailiffs, and commonalty of the city of Exeter.
Falmouth	0	4	12	Mayor, aldermen, and burgesses of the town of Falmouth in the county of Cornwall.
Grantham	0	4	12	Aldermen and burgesses of the town or borough of Grantham.
Gravesend	2	6	18	Mayor, jurats, and inhabitants of the villages and parishes of Gravesend and Melton in the county of Kent.
Grimsby	0	4	12	Mayor and burgesses of the town of Grimsby in the county of Lincoln.
Hastings	3	6	18	Mayor, jurats, and commonalty of the town and port of Hastings in the county of Sussex.
Kingston-upon-Thames	3	6	18	Bailiffs and freemen of the borough of Kingston-upon-Thames.

Borough.	Wards.	Aldermen.	Councillors.	Style of Corporate Body.
Lancaster	3	6	18	Mayor, bailiffs, and commonalty of the town of Lancaster in the county palatine of Lancaster.
Lincoln	3	6	18	Mayor, sheriffs, citizens, and commonalty of the city of Lincoln.
Liskeard	0	4	12	Mayor and burgesses of the borough of Liskerret otherwise Liskeard in the county of Cornwall.
Lohut	2	6	18	Warden and six assistants of the town of Louth and Free School of King Edward the Sixth in Louth.
Ludlow	0	4	12	Bailiffs, burgesses, and commonalty of the town and borough of Ludlow.
Maidstone.....	3	6	18	Mayor, jurats, and commonalty of the King's Town and parish of Maidstone in the county of Kent.
Maldon	0	4	12	Mayor, aldermen, and capital burgesses and commonalty of Maldon.
Newbury	0	4	12	Mayor, aldermen, and burgesses of the borough of Newbury.
Oswestry	2	6	18	Mayor, aldermen, common councilmen, and burgesses of Oswestry.
Penzance	2	6	18	Mayor, aldermen, and commonalty of the town of Penzance in the county of Cornwall.
Plymouth ...	6	12	36	Mayor and commonalty of the borough of Plymouth.
Pontefract.....	0	4	12	Mayor, aldermen, and burgesses of the borough or town of Pontefract.
Richmond.....	0	4	12	Mayor and aldermen of the borough of Richmond in the county of York.
Romsey.....	0	4	12	Mayor, aldermen, and burgesses of the town of Romsey Infra in the county of Southampton.
St. Ives.....	0	4	12	Mayor and burgesses of the borough of St. Ives.
Saffron Walden	0	4	12	Mayor and aldermen of the town of Saffron Walden in the county of Essex.
Stockton	2	6	18	Mayor, aldermen, burgesses, and commonalty of the borough of Stockton.
Tewkesbury....	0	4	12	Bailiffs, burgesses, and commonalty of the borough of Tewkesbury in the county of Gloucester.
Walsall.....	3	6	18	Mayor and commonalty of the borough and foreign of Walsall in the county of Stafford.
Welchpool.....	0	4	12	Bailiffs and burgesses of the borough of Poole in the county of Montgomery.
Wenlock	3	6	18	Burgesses of the borough of Wenlock.
Wisbech	2	6	18	Burgesses of the borough of Wisbech.
York	6	12	36	Mayor and commonalty of the city of York.

SCHEDULE (B.)

ENGLAND AND WALES.

BOROUGHES WHICH ARE NOT TO HAVE A COMMISSION OF THE PEACE
UNLESS ON PETITION AND GRANT.

SECTION 1.

PARLIAMENTARY BOUNDARIES TO BE TAKEN UNTIL ALTERED BY PARLIAMENT.

Borough.	Wards.	Aldermen.	Councillors.	Style of Corporate Body.
Arundel.....	0	4	12	Mayor and burgesses of the borough of Arundel.
Beaumaris.....	0	4	12	Mayor, bailiff, and burgesses of the borough of Beaumaris.
Cardigan.....	0	4	12	Mayor, common council, and burgesses of the town and borough of Cardigan.
Llanidloes.....	0	4	12	Mayor and burgesses of the borough of Llanidloes.
Pwllheli.....	0	4	12	Mayor, bailiffs, and burgesses of the borough of Pwllheli.
Ruthin.....	0	4	12	Aldermen and burgesses of the borough of Ruthin.
Tenby.....	0	4	12	Mayor, bailiffs, and burgesses of the borough of Tenby.
Thetford.....	0	4	12	Mayor and burgesses of the borough of Thetford.
Totnes.....	0	4	12	Mayor and burgesses of the borough of Totnes in the county of Devon.

SECTION 2.

MUNICIPAL BOUNDARIES TO BE TAKEN UNTIL ALTERED BY PARLIAMENT.

Basingstoke....	0	4	12	Mayor, aldermen, and burgesses of the town of Basingstoke, in the county of Southampton.
Beccles.....	0	4	12	Portreeve, surveyors, and commonalty of the Fen of Beccles in the county of Suffolk.
Blandford Forum	0	4	12	Bailiff and burgesses of the borough of Blandford Forum in the county of Dorset.
Bodmin.....	0	4	12	Mayor and burgesses of the borough of Bodmin in the county of Cornwall.
Buckingham....	0	4	12	Bailiff and burgesses of the borough and parish of Buckingham in the county of Buckingham.
Calne.....	0	4	12	Guild stewards and burgesses in the borough of Calne.
Chard.....	0	4	12	Portreeve and burgesses of the borough of Chard in the county of Somerset.
Chippenham....	0	4	12	Bailiffs and burgesses of the borough of Chippenham in the county of Wilts.
Chipping Norton	0	4	12	Bailiffs and burgesses of the borough of Chipping Norton in the county of Oxford.
Daventry.....	0	4	12	Bailiffs, burgesses, and commonalty of the borough of Daventry in the county of Northampton.
Droitwich.....	0	4	12	Bailiffs and burgesses of the borough of Wych otherwise Droitwich in the county of Worcester.
Eye.....	0	4	12	Bailiff, burgesses, and commonalty of the town and burgh of Eye.
Faversham....	0	4	12	Mayor, jurats, and commonalty of the town of Faversham.

Borough.	Wards.	Aldermen.	Councillors.	Style of Corporate Body.
Folkestone	0	4	12	Mayor, jurats, and commonalty of the town of Folkestone.
Flint	0	4	12	Mayor, bailiffs, and burgesses of the borough of Flint.
Glastonbury	0	4	12	Mayor and burgesses of the town of Glastonbury in the county of Somerset.
Godalming	0	4	12	Warden and inhabitants of the town of Godalming.
Godmanchester .	0	4	12	Bailiffs, assistants, and commonalty of the borough of Cirencester alias Godmanchester.
Helstone	0	4	12	Mayor and commonalty of the borough of Helston.
Huntingdon	0	4	12	Mayor, aldermen, and burgesses of the borough of Huntingdon.
Hythe	0	4	12	Mayor, jurats, and commonalty of the town and port of Hythe in the county of Kent.
Launceston	0	4	12	Mayor and commonalty of the borough of Dunneheved otherwise Launceston.
Llandovery	0	4	12	Bailiff and burgesses of the borough of Llanymtheryve.
Lyme Regis	0	4	12	Mayor and burgesses of the borough of Lyme in the county of Dorset.
Lymington	0	4	12	Mayor and burgesses of the borough of Lymington.
Maidenhead	0	4	12	Mayor, bridgemasters, and burgesses of the town of Maydenheth.
Marlborough ..	0	4	12	Mayor and burgesses of the borough and town of Marlborough in the county of Wilts.
Morpeth	0	4	12	Bailiffs and burgesses of the borough of Morpeth in the county of Northumberland.
Penryn	0	4	12	Mayor and burgesses of Penryn in the county of Cornwall.
Retford, East ..	0	4	12	Bailiffs and burgesses of East Retford in the county of Nottingham.
Rye	0	4	12	Mayor, jurats, and commonalty of the ancient town of Rye.
Sandwich	0	4	12	Mayor, jurats, and commonalty of the town and port of Sandwich in the county of Kent.
Shaftesbury	0	4	12	Mayor and burgesses of the borough of Shafton otherwise Shaftesbury in the county of Dorset.
South Wold	0	4	12	Bailiffs, aldermen, and burgesses of the borough of South Wold.
South Molton ..	0	4	12	Mayor and burgesses of the borough and parish of South Molton in the county of Devon.
Stratford-on-Avon.	0	4	12	Mayor, aldermen, and burgesses of the borough of Stratford-upon-Avon.
Tamworth	0	4	12	Bailiffs and commonalty of the borough of Tamworth.
Tenterden	0	4	12	Mayor, jurats, and commons of the town and hundred of Tenterden in the county of Kent.
Torrington	0	4	12	Mayor, aldermen, and burgesses of the borough and town of Great Torrington in the county of Devon.
Wallingford	0	4	12	Mayor, burgesses, and commonalty of the borough of Wallingford.
Wycombe, Chepping.	0	4	12	Mayor, bailiffs, and burgesses of the borough of Chipping Wycombe (otherwise Wicombe) in the county of Buckingham.

SCHEDULE (C.)

No. V.
5 & 6 W. 4.
c. 76.

Berwick-upon-Tweed.	Northumberland
Bristol.	Gloucestershire.
Chester.	Cheshire.
Exeter.	Devonshire.
Kingston-upon-Hull.	Yorkshire.
Newcastle-upon-Tyne.	Northumberland.

SCHEDULE (D.)

No. 1.

THE LIST OF BURGESSES of the borough of _____ in
the parish [or township] of _____

Christian name and surname of each person at full length.	Nature of the property rated.	Street, lane, or other place in this parish (or township) where the property is situated for which he is now rated.
Ashton, John - - -	Shop - - -	No. 23, Church-street.
Bates, Thomas - - -	House - - -	- - - Brooke's Farm.

(Signed) A. B. } Overseers of the said parish
C. D. } [or township.]

No. 2.

NOTICE OF CLAIM.

To the town clerk of the borough of _____

I HEREBY give you notice, That I claim to have my name inserted in the burgess list of the borough of _____ that I occupy [here describe the house, warehouse, counting-house, or shop then occupied by the claimant] in the borough, and that I have been rated in the parish of _____ [here state the parish or several parishes, and the time during which the claimant has been rated in each of them within the borough, necessary for his qualification.]

Dated the _____ day of _____ in the year _____.

(Signed) John Allen of [Place of Abode.]

No. 3.

NOTICE OF OBJECTION.

To the town clerk of the borough of _____ [or to the person objected to, as the case may be].

I HEREBY give you notice, That I object to the name of Thomas Bates of Brook's Farm, in the parish of _____ [describe the person objected to as described in the burgess list] being retained on the burgess list of the borough of _____

Dated the _____ day of _____ in the year _____.

(Signed) John Ashton of [here state the place of abode and property for which he is said to be rated in the burgess list].

No. V.
5 & 6 W. 4,
c. 76.

No. 4.

LIST OF CLAIMANTS.

The following persons claim to have their names inserted on the bur-
gess list of the borough of

Christian name and surname of each claimant.	Nature of the property for which he is now rated.	Situation of the property for which he is now rated.	Parish (or Parishes) in which he has been rated, as stated in the claim.
Allen, John - -	House - -	No. 17, High Street.	Rated in the last year in St. Mary's parish, in the borough, and in the two preceding years in St. James's parish in the borough.

(Signed) A. B. Town Clerk.

No. 5.

LIST OF PERSONS OBJECTED TO.

The following persons have been objected to as not being entitled
to have their names retained on the burgess list of the borough of

Christian name and surname of each person objected to.	Nature of the property for which he is now rated.	Situation of the property for which he is said to be now rated in the over- seer's list.	Parish in which is the property for which he is now said to be rated in the overseer's list.
Bates, Thomas -	House - -	Brook's Farm.	Saint James's.

(Signed) A. B. Town Clerk.

SCHEDULE (E.)

No. V.
5 & 6 W. 4,
c. 76.

Abingdon	6 G. 4, c. 189.		
Arundel	25 G. 3, c. 90.		
Banbury	5 G. 4, c. 130.		
Barnstable	51 G. 3, c. 154.		
Basingstoke	55 G. 3, c. 7.		
Bath	33 G. 3, c. 89.	41 G. 3, c. 126.	54 G. 3, c. 105.
	6 G. 4, c. 74.		
Beebles	36 G. 3, c. 51.		
Bedford	43 G. 3, c. 128.	50 G. 3, c. 82.	
Berwick-upon-Tweed ..	40 G. 3, c. 25.		
Beverley	48 G. 3, c. 87.	6 G. 4, c. 138.	
Boston	16 G. 3, c. 25.	32 G. 3, c. 80.	46 G. 3, c. 40.
	46 G. 3, c. 41.		
Brecknock	16 G. 3, c. 56.		
Bridgewater	7 G. 4, c. 7.		
Bridport	25 G. 3.		
Bristol	11 W. 3, c. 23.	22 G. 2.	28 G. 2, c. 32.
	29 G. 2, c. 47.	6 G. 3, c. 34.	23 G. 3,
	c. 65.	46 G. 3, c. 26.	3 G. 4, c. 24.
	2 G. 4, c. 89.	5 G. 4, c. 79.	
Bury Saint Edmund's ..	51 G. 3, c. 9.	1 G. 4.	
Cambridge	28 G. 3, c. 64.	34 G. 3, c. 104.	
Canterbury	27 G. 3, c. 31.		
Cardiff	G. 3, c. 7.		
Carlisle	44 G. 3, c. 58.	7 & 8 G. 4, c. 86.	
Chester	2 G. 3.	43 G. 3, c. 47.	
Chichester	31 G. 3, c. 63.	1 & 2 G. 4, c. 68.	
Chepping Wycombe ..	53 G. 3 c. 164.		
Chippenham	4 W. 4, c. 47.		
Coventry	30 G. 3, c. 77.		
Dartmouth	55 G. 3, c. 28.		
Daventry	46 G. 3, c. 118.		
Deal	52 G. 3, c. 73.		
Derby	32 G. 3, c. 78.	6 G. 4, c. 132.	
Devizes	21 G. 3, c. 36.	6 G. 4, c. 162.	
Doncaster	43 G. 3, c. 147.		
Dorchester ..	16 G. 3, c. 27.	4 W. 4, 22 May.	
Dover	18 G. 3, c. 76.	50 G. 3, c. 26.	11 G. 4, c. 117.
Durham	30 G. 3, c. 67.		
Eversham	3 G. 4, c. 67.		
Exeter	1 G. 3.	46 G. 3, c. 39.	50 G. 3, c. 146.
	2 & 3 W. 4, c. 106.		
Faversham	29 G. 3, c. 69.		
Folkestone	36 G. 3, c. 49.		
Gateshead	54 G. 3, c. 109.		
Glastonbury	51 G. 3, c. 173.		
Gloucester	4 G. 3, c.	17 G. 3, c. 68.	21 G. 3, c. 74.
	1 & 2 G. 4, c. 22.	4 W. 4, c. 44.	
Godalming	6 G. 4, c. 177.		
Gravesend	13 G. 3, c. 15.	56 G. 3, c. 77.	3 G. 4, c. 51.
Guildford ..	32 G. 2.	52 G. 3, c. 51.	
Harwich	59 G. 3, c. 118.		
Hastings	2 W. 4, c. 45.	2 W. 4, c. 91.	
Hereford	14 G. 3, c. 38.	56 G. 3, c. 23.	
Hertford	28 G. 3, c. 75.	9 G. 4, c. 38.	
Huntingdon	25 G. 3, c. 9.		
Hythe	38 G. 3, c. 16.		
Ipawich	13 E. c. 24.	33 G. 3, c. 92.	37 G. 3, c. 44.
	55 G. 3, c. 26.	1 & 2 G. 4, c. 104.	

No. V.
5 & 6 W. 4,
c. 76.

Kingston-upon-Hull	.. 28 G. 2, c. 27.	2 G. 3.	4 G. 3.	23 G. 3, c. 55.
		41 G. 3, c. 30.	50 G. 3, c. 41.	
Kidderminster	..... 53 G. 3, c. 83.			
Kingston-upon-Thames	.. 13 G. 3, c. 61.			
King's Lynn	..... 43 G. 3, c. 37.			
Lancaster	..... 5 G. 4, c. 66.			
Leeds	..... 30 G. 3, c. 68.	49 G. 3, c. 122.	55 G. 3, c. 42.	
		5 G. 4, c. 124.		
Leominster	..... 48 G. 3, c. 148.			
Lichfield	..... 46 G. 3, c. 42.			
Lincoln	... 9 G. 4, c. 27.			
Liverpool	..... 21 G. 2, c. 24.	26 G. 3, c. 12.	28 G. 3, c. 13.	
		1 G. 4, c. 13.	7 G. 4, c. 57.	11 G. 4, c. 15.
Louth	..... 6 G. 4, c. 129.			
Ludlow	..... 23 G. 3, c. 25.			
Macclesfield	..... 54 G. 3, c. 23.	6 G. 4, c. 96.	11 G. 4, c. 124.	
Maidstone	..... 31 G. 3, c. 62.	42 G. 3, c. 90.	59 G. 3, c. 16.	
Monmouth	..... 58 G. 3, c. 81.			
Newark	..... 38 G. 3, c. 26.			
Newbury	..... 6 G. 4, c. 72.			
Newcastle-under-Lyme	.. 59 G. 3, c. 71.			
Newcastle-upon-Tyne	.. 3 G. 3.	26 G. 3, c. 39.	52 G. 3, c. 76.	
Newport, (Isle of Wight)	.. 26 G. 3, c. 119.			
Newport, (Monmouth)	.. 7 G. 4, c. 6.			
Northampton	..... 18 G. 3, c. 79.	37 G. 3, c. 42.	54 G. 3, c. 193.	
Norwich	..... 46 G. 3, c. 67.	6 G. 4, c. 78.		
Nottingham	..... 2 G. 3.	1 & 2 G. 4, c. 70.		
Oswestry	..... 49 G. 3, c. 140.			
Oxford	..... 11 G. 3, c. 19.	21 G. 3, c. 47.	52 G. 3, c. 72.	
		5 & 6 W. 4, c. .		
Pembroke	..... 9 G. 4, c. 119.			
Plymouth	..... 51 G. 3, c. 102.	5 G. 4, c. 22.		
Pontefract	..... 50 G. 3, c. 40.			
Portsmouth	..... 8 G. 3.	16 G. 3, c. 59.	32 G. 3, c. 103.	
		7 G. 4, c. 64.		
Preston	..... 55 G. 3, c. 22.			
Reading	..... 7 G. 4, c. 56.			
Rochester	..... 9 G. 3, c. 32.			
Sandwich	..... 27 G. 3, c. 67.			
Sarum, New	..... 10 G. 2.	55 G. 3, c. 23.		
Scarborough	..... 41 G. 3, c. 94.			
Shrewsbury	..... 29 G. 2, c. 78.	1 & 2 G. 4, c. 58.		
Southampton	..... 10 G. 3, c. 25.	50 G. 3, c. 169.		
Stafford	..... 11 G. 4, c. 44.			
St. Alban's	..... 44 G. 3, c. 8.			
Stockport	..... 7 G. 4, c. 118.			
Stockton	..... 1 G. 4, c. 62.			
Sunderland	..... 50 G. 3, c. 25.	50 G. 3, c. 27.	7 G. 4, c. 120.	
Swansea	..... 49 G. 3, c. 79.			
Tewkesbury	..... 26 G. 3, c. 17.			
Tiverton	..... 5 G. 3.	34 G. 3, c. 52.	3 G. 4, c. 60.	
Truro	..... 30 G. 3, c. 62.			
Wallingford	..... 35 G. 3, c. 75.			
Walsall	..... 5 G. 4, c. 68.			
Wells	..... 1 & 2 G. 4, c. 12.	2 W. 4, c. 37.		
Weymouth and Melcombe Regis	.. 16 G. 3, c. 57.	50 G. 3, c. 187.		
Winchester	..... 11 G. 3, c. 9.	48 G. 3, c. 2.		
Windsor	..... 9 G. 3, c. 10.			
Wisbeach	..... 50 G. 3, c. 206.			
Worcester	..... 4 G. 4, c. 69.			
Yarmouth, Great	..... 50 G. 3, c. 23.			
York	..... 6 G. 4, c. 127.	3 W. 4, c. 62.		

PART II.

Of Real Estates.

CLASS I. Miscellaneous Statutes concerning Real Estates.

2. Tithes.
 3. Approvement and Inclosure of Commons.
 4. Joint Tenants, Coparceners, and Tenants in Common.
 5. Mortmain and Charitable Uses.
 6. Conveyances by Infants, Lunatics, &c.
 7. Fraudulent Conveyances.
 8. Leases.
 9. Uses.
 10. Fines and Recoveries.
 11. Wills.
 12. Land Revenue of the Crown.
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CLASS. I.

MISCELLANEOUS STATUTES.

[No. I.] 1 W. IV. c. 46.—An act to alter and amend the Law relating to Illusory Appointments. [16th July 1830.]

WHEREAS, by deeds, wills, and other instruments, powers are frequently given to appoint real and personal property amongst several objects, in such manner that none of the objects can be excluded by the donee of the power from a share of such property: and whereas appointments in exercise of such powers, whereby an unsubstantial, illusory, or nominal share of the property affected thereby is appointed to or left unappointed to devolve upon any one or more of the objects thereof, are invalid in equity, although the like appointments are good and binding at law: and whereas considerable inconvenience hath arisen from the rule of equity relative to such appointments, and it is expedient that such appointments should be as valid in equity as at law: be it therefore enacted, &c. That no appointment, which from and after the passing of this act, shall be made in exercise of any power or authority to appoint any property, real or personal, amongst several objects, shall be invalid or impeached in equity, on the ground that an unsubstantial, illusory, or nominal share only shall be thereby appointed to or left unappointed to devolve upon any one or more of the objects of such power; but that every such appointment shall be valid

Illusory appointments shall be valid in equity as well as at law.

No. I.
1 W. 4, c. 46.

Not to affect
any deed which
declares the
amount of the
share;

nor to give any
other force to
any appoint-
ment than the
same would
have had.

and effectual in equity as well as at law, notwithstanding that any one or more of the objects shall not thereunder, or in default of such appointment, take more than an unsubstantial, illusory, or nominal share of the property subjected to such power.

II. Provided always, and be it further enacted, that nothing in this act contained shall prejudice or affect any provision in any deed, will, or other instrument creating any such power as aforesaid, which shall declare the amount of the share or shares from which no object of the power shall be excluded.

III. Provided also, and be it further enacted and declared, that nothing in this act contained shall be construed, deemed, or taken, at law or in equity, to give any other validity, force, or effect to any appointment, than such appointment would have had if a substantial share of the property affected by the power had been thereby appointed to or left unappointed to devolve upon any object of such power.

[No. II.] 1 W. IV. c. 47.—An Act for consolidating and amending the Laws for facilitating the Payment of Debts out of Real Estate. (1) [16th July 1830.]

WHEREAS, &c. [Recites the titles of the 3 & 4 W. & M. c. 14, 6 & 7 W. 3, c. 14, 4 Ann. c. 5, (1.) 47 G. 3, c. 74.] And whereas it is expedient that the provisions of the said recited acts should be enlarged, and that the said recited acts should be repealed, in order that all the provisions relating to this matter should be consolidated in one act; be it therefore enacted by the king's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, that the said several recited acts shall be and the same are hereby repealed, but so as not to affect any of the provisions and remedies of the said acts, or any of them, to the benefit of which any persons are entitled, as against any estate or interest in any lands, tenements, hereditaments, or other real estate, of any person or persons who died before the passing of this act.

Recited acts
repealed.

For remedying
frauds com-
mitted on cre-
ditors by wills.

II. And whereas it is not reasonable or just that by the practice or contrivance of any debtors their creditors should be defrauded of their just debts, and nevertheless it hath often so happened, that where several persons having by bonds, covenants, or other specialties bound themselves and their heirs, and have afterwards died seised in fee simple of and in manors, messuages, lands, tenements, and hereditaments, or had power or authority to dispose of or charge the same by their wills or testaments, have, to the defrauding of such their creditors, by their last wills or testaments, devised the same or disposed thereof in such manner as such creditors have lost their said debts; for remedying of which, and for the maintenance of just and upright dealing, be it therefore further enacted, That all wills and testamentary limitations, dispositions, or appointments, already made by persons now in being, or hereafter to be made by any person or persons whomsoever, of or concerning any manors, messuages, lands, tenements, or hereditaments, or any rent, profit, term, or charge out of the same, whereof any person or persons, at the time of his, her, or their decease, shall be seised in fee simple, in possession, reversion, or remainder, or have power to dispose of the same by his, her, or their last wills or testaments, shall be deemed or taken, (only as against such person or persons, bodies politic or corporate, and his and their heirs, successors, executors, administrators, and assigns, and every of them, with whom the person

or persons making any such wills or testaments, limitations, dispositions, or appointments shall have entered into any bond, covenant, or other specialty binding his, her, or their heirs,) to be fraudulent, and clearly, absolutely, and utterly void, frustrate, and of none effect; any pretence, colour, feigned or presumed consideration, or any other matter or thing to the contrary notwithstanding.

III. And, for the means that such creditors may be enabled to recover upon such bonds, covenants, and other specialties, be it further enacted, That in the cases before mentioned every such creditor shall and may have and maintain his, her, and their action and actions of debt or covenant upon the said bonds, covenants, and specialties against the heir and heirs at law of such obligor or obligors, covenantor or covenantors, and such devisee and devisees, or the devisee or devisees of such first-mentioned devisee or devisees jointly, by virtue of this act; and such devisee and devisees shall be liable and chargeable for a false plea by him or them pleaded, in the same manner as any heir should have been for any false plea by him pleaded, or for not confessing the lands or tenements to him descended.

IV. That if in any case there shall not be any heir at law against whom, jointly with the devisee or devisees, a remedy is hereby given, in every such case every creditor to whom by this act relief is so given shall and may have and maintain his, her, and their action and actions of debt or covenant, as the case may be, against such devisee or devisees solely: and such devisee or devisees shall be liable for false plea as aforesaid.

V. Provided always, That where there hath been or shall be any limitation or appointment, devise or disposition, of or concerning any manors, messuages, lands, tenements, or hereditaments, for the raising or payment of any real and just debt or debts, or any portion or portions, or sum or sums of money, for any child or children of any person, according to or in pursuance of any marriage contract or agreement in writing, *bond fide* made before such marriage, the same and every of them shall be in full force, and the same manors, messuages, lands, tenements, and hereditaments shall and may be holden and enjoyed by every such person or persons, his, her, and their heirs, executors, administrators and assigns, for whom the said limitation, appointment, devise, or disposition was made, and by his, her, and their trustee or trustees, his, her, and their heirs, executors, administrators, and assigns, for such estate or interest as shall be so limited or appointed, devised or disposed, until such debt or debts, portion or portions, shall be raised, paid, and satisfied, any thing in this act contained to the contrary notwithstanding.

VI. That in all cases where any heir at law shall be liable to pay the debts or perform the covenants of his ancestors, in regard of any lands, tenements, or hereditaments descended to him, and shall sell, alien, or make over the same, before any action brought or process sued out against him, such heir at law shall be answerable for such debt or debts, or covenants, in an action or actions of debt or covenant, to the value of the said lands so by him sold, aliened, or made over, in which cases all creditors shall be preferred as in actions against executors and administrators; and such execution shall be taken out upon any judgment or judgments so obtained against such heir, to the value of the said land, as if the same were his own proper debt or debts; saving that the lands, tenements, and hereditaments, *bond fide*, aliened before the action brought, shall not be liable to such execution.

VII. Provided always, That where any action of debt or covenant upon any specialty is brought against the heir, he may plead *riens per descent* at the time of the original writ brought or the bill filed against him, any thing herein contained to the contrary notwithstanding; and the plaintiff in such action may reply that he had lands, tenements, or hereditaments from his ancestor before the original writ brought or bill filed; and if, upon the issue joined thereupon, it be found for the

No. II.
1 W. 4, c. 47.

Enabling creditors to recover upon bonds, &c.

If there is no heir at law actions may be maintained against the devisees.

Not to affect limitations for just debts, or portions for children.

Heir at law to be answerable for debts, although he may sell estate before action brought.

Where an action of debt is brought against the heir, he may plead *riens per descent*.

No. II.

1 W. 4, c. 47.

plaintiff, the jury shall inquire of the value of the lands, tenements, or hereditaments so descended, and thereupon judgment shall be given and execution shall be awarded as aforesaid; but if judgment be given against such heir by confession of the action, without confessing the assets descended, or upon demurrer or *nihil dicet*, it shall be for the debt and damage, without any writ to inquire of the lands, tenements, or hereditaments so descended.

Devises to be liable the same as heirs at law.

VIII. Provided always, That all and every the devisee and devisees made liable by this act, shall be liable and chargeable in the same manner as the heir at law by force of this act, notwithstanding the lands, tenements, and hereditaments to him or them devised shall be aliened before the action brought.

Traders' estates shall be assets to be administered in courts of equity.

IX. That from and after the passing of this act, where any person being, at the time of his death, a trader, within the true intent and meaning of the laws relating to bankrupts, shall die seized of or entitled to any estate or interest in lands, tenements, or hereditaments, or other real estate, which he shall not by his last will have charged with or devised subject to or for the payment of his debts, and which would be assets for the payment of his debts due on any specialty in which the heirs were bound, the same shall be assets to be administered in courts of equity for the payment of all the just debts of such person, as well debts due on simple contract as on specialty; and that the heir or heirs at law, devisee or devisees of such debtor, and the devisee or devisees of such first-mentioned devisee or devisees, shall be liable to all the same suits in equity, at the suit of any of the creditors of such debtor, whether creditors by simple contract or by specialty, as they are liable to at the suit of creditors by specialty in which the heirs were bound: Provided always, That in the administration of assets by courts of equity, under and by virtue of this provision, all creditors by specialty, in which the heirs are bound, shall be paid the full amount of the debts due to them before any of the creditors by simple contract or by specialty, in which the heirs are not bound, shall be paid any part of their demands.

Creditors by specialty to be paid first.

Parol shall not demur by or against infants.

X. That from and after the passing of this act, where any action, suit, or other proceeding for the payment of debts, or any other purpose, shall be commenced or prosecuted by or against any infant under the age of twenty-one years, either alone or together with any other person or persons, the parol shall not demur, but such action, suit, or other proceeding shall be prosecuted and carried on in the same manner and as effectually as any action or suit could before the passing of this act be carried on or prosecuted by or against any infant, where, according to law, the parol did not demur.

Infants to make conveyances under order of the court.

XI. That where any suit hath been or shall be instituted in any court of equity, for the payment of any debts of any person or persons deceased, to which their heir or heirs, devisee or devisees, may be subject or liable, and such court of equity shall decree the estates liable to such debts, or any of them, to be sold for satisfaction of such debt or debts, and by reason of the infancy of any such heir or heirs, devisee or devisees, an immediate conveyance thereof cannot, as the law at present stands, be compelled, in every such case such court shall direct, and, if necessary, compel such infant or infants to convey such estates so to be sold (by all proper assurances in the law) to the purchaser or purchasers thereof, and in such manner as the said court shall think proper and direct; and every such infant shall make such conveyance accordingly; and every such conveyance shall be as valid and effectual to all intents and purposes as if such person or persons, being an infant or infants, was or were at the time of executing the same of the full age of twenty-one years. (1)

(1) An application in a creditor's suit under the statute for an infant heir or devisee to convey must be made by petition and not by motion. *Anon*, 1 *Young and Collyer*, 75.

XII. That where any lands, tenements, or hereditaments hath been or shall be devised in settlement by any person or persons whose estate under this act, or by law, or by his or their will or wills, shall be liable to the payment of any of his or their debts, and by such devise shall be vested in any person or persons for life or other limited interest, with any remainder, limitation, or gift over, which may not be vested, or may be vested in some person or persons from whom a conveyance or other assurance of the same cannot be obtained, or by way of executory devise, and a decree shall be made for the sale thereof for the payment of such debts or any of them, it shall be lawful for the court by whom such decree shall be made to direct any such tenant for life, or other person having a limited interest, or the first executory devisee thereof, to convey, release, assign, surrender, or otherwise assure the fee simple or other the whole interest or interests so to be sold to the purchaser or purchasers, or in such manner as the said court shall think proper; and every such conveyance, release, surrender, assignment, or other assurance shall be as effectual as if the person who shall make and execute the same were seised or possessed of the fee simple or other whole estate so to be sold.

No. III.

1 W. 4, c. 47.

Persons having a life interest may convey the fee, if the estate is ordered to be sold.

XIII. That nothing in this act shall extend or be deemed or construed to extend to repeal or alter an act made by the parliament of Ireland, in the thirty-third year of the reign of king George the First, intituled *An Act for the better securing the Payment of Bankers' Notes, and for providing a more effectual Remedy for the Security and Payment of the Debts due by Bankers.*

Not to repeal act 33 G. 1, (1.) relating to debts due to bankers.

[No. III.] 1 W. IV. c. 60.—An Act for amending the Laws respecting Conveyances and Transfers of Estates and Funds vested in Trustees and Mortgagees; and for enabling Courts of Equity to give Effect to their Decrees and Orders in certain Cases. (1)

[23rd July 1830.]

WHEREAS, &c. [Recites the titles of the 6 G. 4, c. 74, 2 G. 1, (1.), 5 G. 2, (1.), 7 G. 4, c. 43]: And whereas it is expedient that the provisions of the said acts should be consolidated and enlarged: be it therefore enacted, &c. that the said recited acts shall be and the same are hereby repealed, except so far as the same relate to stock belonging beneficially to infants or lunatics, and also except as to such proceedings of any description, under the same acts respectively, as shall have been commenced before the passing of this act, and which may be proceeded in according to the provisions of the said recited acts respectively, or according to the provisions of this act, as shall be thought expedient: Provided always, that the several acts repealed by the said first-recited act shall not be revived.

Recited acts repealed, except as herein mentioned.

II. And inasmuch as, in order to avoid unnecessary repetition, certain words are used in this act as describing subjects some of which, according to their usual sense, such words would not embrace; for the understanding of the sense attached to them in this act, be it further enacted, that the provisions of this act shall extend to and include the several other estates and persons, matters and things, herein-after mentioned; (that is to say,) those relating to land, to any manor, messuage, tenement, hereditament, or real property, of whatever tenure, and to property of every description transferrable otherwise than in books kept by any company or society, or any share thereof or interest therein; those relating to stock, to any fund, annuity, or security transferrable in books kept by any company or society established or to

Rules for the interpretation of this act.

(1) See also *post*, the 4 & 5 W. 4, c. 23, amending the law relative to the escheat and forfeiture of real and personal property holden in trust.

No. III.
1 W. 4, c. 60.

be established, or to any money payable for the discharge or redemption thereof, or any share or interest therein; those relating to dividends, to interest or other annual produce; those relating to a conveyance, to any fine, recovery, release, surrender, assignment, or other assurance, including all acts, deeds, and things necessary for making and perfecting the same; those relating to a transfer, to any assignment, payment, or other disposition; those relating to a lunatic, to any idiot or person of unsound mind or incapable of managing his affairs; those relating to an heir, to any devisee or other real representative by the common law, or by custom or otherwise; and those relating to an executor, to any administrator or other personal representative; unless there be something in the subject or context repugnant to such construction; and whenever this act, in describing or referring to any trustee or other person, or any trust land, conveyance, matter, or thing, uses the word importing the singular number or the masculine gender only, the same shall be understood to include and shall be applied to several persons as well as one person, and females as well as males, and bodies corporate as well as individuals, and several trust lands, stocks, conveyances, matters, or things respectively, as well as one trust land, stock, conveyance, matter, or thing respectively, unless there be something in the subject or context repugnant to such construction.

Where trustees or mortgagees of land are lunatic, the lord chancellor may direct the committees of such persons to convey land;

III. That where any person seised or possessed of any land upon any trust or by way of mortgage shall be lunatic, (1) it shall be lawful for the committee of the estate of such person, by the direction of the lord chancellor of Great Britain, being intrusted by virtue of the king's sign manual with the care and commitment of the custody of the persons and estates of persons found idiot, lunatic, or of unsound mind, to convey such land, in the place of such trustee or mortgagee, to such person and in such manner as the said lord chancellor shall think proper; and every such conveyance shall be as effectual as if the trustee or mortgagee, being lunatic, had been of sane mind, memory, and understanding, and had made and executed the same,

or may direct the committee or other person to transfer stocks or funds standing in the name of a lunatic trustee, and receive the dividends.

IV. That where any stock shall be standing in the name of any person who shall be a lunatic, as a trustee or executor, alone or jointly with any other person, or shall continue to be standing in the name of a deceased person whose executor shall be lunatic, or shall be otherwise vested in or transferrable by any person who shall be lunatic, for the benefit of some other person, it shall be lawful for the lord chancellor, intrusted as aforesaid, to direct the committee of the estate of any such lunatic to transfer or join in transferring such stock to or into the name of such person and in such manner as the said lord chancellor shall think proper, and also to order such person appointed as aforesaid to receive and pay over or join in receiving and paying over the dividends of such stock in such manner as the said lord chancellor shall direct; and every such transfer, receipt, and payment shall be as effectual as if the person being lunatic had been of sane mind, memory, and understanding, and had transferred, received, and paid, or joined in transferring, receiving, and paying, such stock or dividends.

Lord chancellor, before inquisition, may appoint a person to convey or transfer.

V. That where any such person as aforesaid being lunatic shall not have been found such by inquisition, it shall be lawful for the lord chancellor, intrusted as aforesaid, to direct any person whom the said lord chancellor may think proper to appoint for that purpose, in the place of such last-mentioned lunatic, to convey or join in conveying such land, or to transfer or join in transferring such stock, and receive and pay over the dividends thereof, as herein-before is mentioned; and every such conveyance, transfer, receipt, or payment shall be as effectual as if the said person being lunatic had been of sane mind, memory, and understanding, and had made, done, or executed the same; but where any sum of money shall be payable to such lunatic, no such last-mentioned order shall be made if such sum of money shall

(1) See the statute relating to conveyances, &c., by lunatics, *post*, Part II. Class 6.

exceed seven hundred pounds; and where any sum not exceeding seven hundred pounds shall be payable to such lunatic, and any such order shall be made, the lord chancellor, intrusted as aforesaid, shall direct to whom and in what manner the money so payable shall be paid; and every payment made in pursuance of such direction shall effectually discharge the person paying the same from the money which he shall so pay.

No. III.
1 W. 4, c. 60.

VI. That where any person seised or possessed of any land upon any trust or by way of mortgage shall be under the age of twenty-one years, it shall be lawful for such infant, by the direction of the court of chancery, to convey the same to such person and in such manner as the said court shall think proper; and every such conveyance shall be as effectual as if the infant trustee or mortgagee had been, at the time of making or executing the same, of the age of twenty-one years.

Infant trustees or mortgagees of land within the jurisdiction of the courts of Lancaster, Chester, Durham, and Wales.

VII. That where any person seised or possessed upon any trust or by way of mortgage of any land situated within the duchy of Lancaster, or the counties palatine of Chester, Lancaster, and Durham respectively, or the principality of Wales, shall be under the age of twenty-one years, it shall be lawful for such infant, by the direction of the court of the duchy chamber of Lancaster, the court of exchequer in the county palatine of Chester, the court of chancery in the county palatine of Lancaster, the court of chancery in the county palatine of Durham, and the several courts of great session in Wales respectively, (1) as to premises within the jurisdiction of the same courts respectively, to convey such lands to such person and in such manner as the said courts respectively shall think proper, in like manner as such infant is herein-before empowered to convey the same by the direction of the court of chancery.

Infant trustees or mortgagees of land within the jurisdiction of the courts of Lancaster, Chester, Durham, and Wales.

VIII. That where any person seised of any land upon any trust shall be out of the jurisdiction of or not amenable to the process of the court of chancery, or it shall be uncertain, where there were several trustees, which of them was the survivor, or it shall be uncertain whether the trustee last known to have been seised as aforesaid be living or dead, or, if known to be dead, it shall not be known who is his heir; or if any trustee seised as aforesaid, or the heir of any such trustee, shall neglect or refuse to convey such land for the space of twenty-eight days next after a proper deed for making such conveyance shall have been tendered for his execution by, or by an agent duly authorized by, any person entitled to require the same; then and in every or any such case it shall be lawful for the said court of chancery to direct any person whom such court may think proper to appoint for that purpose, in the place of the trustee or heir, to convey such land to such person and in such manner as the said court shall think proper; and every such conveyance shall be as effectual as if the trustees seised as aforesaid, or his heir, had made and executed the same.

When trustees of real estates are out of the jurisdiction, or it is uncertain whether they be alive, or who may be the heir, the court of chancery may appoint a person to convey.

IX. That where any person possessed of any land for any term of years upon any trust shall be out of the jurisdiction of or not amenable to the process of the court of chancery, or it shall be uncertain whether the trustee last known to have been possessed as aforesaid be living or dead; or if any trustee possessed as aforesaid, or the executor of any such trustee, shall neglect or refuse to assign or surrender such land for the space of twenty-eight days next after a proper deed for making such assignment or surrender shall have been tendered for his execution by, or by an agent duly authorized by, any person entitled to require the same; then and in every or any such case it shall be lawful for the said court of chancery to direct any person whom such court may think proper to appoint for that purpose, in the place of the trustee or executor, to assign or surrender such land to such person and in such manner as the court shall think proper; and every such assignment or surrender shall be as effectual as if the trustee possessed as aforesaid, or his executor, had made and executed the same.

When trustees of leasehold estates are out of the jurisdiction, &c.

(1) The palatinate courts of Chester and the courts of great sessions in Wales are abolished by the 1 W. 4, c. 70. See post, Part IV. Class I.

No. III.
1 W. 4, c. 60.

Transfer of
stocks or funds.

Directions or
orders of the
court of chan-
cery, or by the
lord chancel-
lor, &c., under
the authority of
this act, to be
made upon pe-
tition.

Lord chancel-
lor or court may

X. That where any person in whose name as a trustee or executor (either alone or together with the name of any other person), or in the name of whose testator, (whether as a trustee or beneficially,) any stock shall be standing, or any other person who shall otherwise have power to transfer or join with any other person in transferring any stock to which some other person shall be beneficially entitled, shall be out of the jurisdiction of or not amenable to the process of the court of chancery, or it shall be uncertain whether such person be living or dead; or if any such trustee or executor or other person shall neglect or refuse to transfer such stock, or receive and pay over the dividends thereof to the person entitled thereto or to any part thereof respectively, or as he shall direct, for the space of thirty-one days next after a request in writing for that purpose shall have been made to any such trustee or executor or other person by the person entitled as aforesaid, then and in every or any such case it shall be lawful for the court of chancery to direct such person as the said court shall think proper to appoint for that purpose, in the place of such trustee or executor or other person, to transfer or join in transferring such stock to or into the name of such person, and in such manner as such court shall direct, and also to order any person appointed as aforesaid to receive and pay over or join in receiving and paying over the dividends of such stock in such manner as the said court shall direct; and every such transfer, receipt, and payment shall be as effectual as if the said trustee or executor or other person had transferred or joined in transferring such stock, or had received and paid or joined in receiving and paying the said dividends. (1) (2)

XI. That every direction or order to be made in pursuance of this act by the lord chancellor intrusted as aforesaid, or by the court of chancery, or by any other court herein-before mentioned, shall be signified by an order to be made in any cause depending in such court respectively, or upon petition in the lunacy or matter; and such person as herein-after is mentioned shall be the petitioner, whether such person be or be not under any legal disability; (that is to say,) if the same shall relate to a conveyance, transfer, receipt, or payment to or in such manner as may be directed by any person beneficially entitled, then upon the petition of the person or some or one of the persons beneficially entitled to the land, stock, or dividends to be conveyed, transferred received, or paid; and if the same shall relate to a conveyance in order to vest any land or stock in a new trustee duly appointed by virtue of some power or authority in some instrument creating or declaring the trusts of such land or stock, or by the court of chancery, either alone or together with any continuing trustee, then upon the petition either of the trustee or some or one of the trustees in whom the same shall be proposed to be vested, or of any person having an interest therein; and if the same shall relate to the conveyance of an estate in mortgage, then upon the petition of the person or some or one of the persons entitled to the equity of redemption thereof, or of the person or some or one of the persons entitled to the monies thereby secured, or the guardian or committee or some or one of the guardians or committees of the person entitled to such monies, if an infant or lunatic.

XII. Provided always nevertheless, and be it further enacted, That where, on account of the length of time which shall have elapsed since

(1) Where a decree declared a defendant against whom the bill had been taken *pro confesso*, to be a trustee of stock for the plaintiff, the court declined to refer it to the master to appoint a person to transfer the stock in the place of the defendant, except upon a petition presented under this statute. *Fellows v. Till*, 5 Simons, 319.

(2) A testator gave an annuity to his widow and the residue of his estate to his children. The executors paid the testator's debts and legacies, and purchased stock in their names to answer the annuity, and paid the dividends to the widow. One of the executors went to reside abroad and the other died. Held, that they were trustees of the stock within this act. *Ex parte Dover*, 5 Simons, 510.

the creation or last declaration of a trust, the title of the person claiming a conveyance or transfer may appear to require deliberate investigation in the presence of all parties interested, in order to prevent the vesting of the legal estate in a person who may not really be entitled to the benefit thereof; or if under other circumstances it shall appear to the lord chancellor, intrusted as aforesaid, or the court of chancery, or any other court herein-before mentioned, not proper to make an order upon petition; it shall be lawful for such lord chancellor or any such court to direct a bill to be filed to establish the right of the party seeking the conveyance or transfer, and upon the establishment by a decree of such right, by the same decree, or any order in the cause or in the lunacy, or both, to direct a conveyance or transfer to be made according to the intent of this act. (1)

No. III.
1 W. 4, c. 60.
direct a bill to be filed to establish the right.

XII. That any committee, infant, or other person directed by virtue of this act to make or join in making any conveyance or transfer or receipt or payment, shall and may be compelled, by the order to be obtained as herein-before is mentioned, to make and execute the same in like manner as trustees of full age, and of sane mind, memory, and understanding, are compellable to convey, transfer, or receive and pay over the trust estates or funds vested in them respectively.

Committees, infants, &c. may be compelled to convey, transfer, &c.

XIV. That where the person or any of the persons to whom any money shall be payable, in or towards the redemption or discharge of any mortgage or incumbrance of which a release or conveyance shall be obtained under the powers of this act, shall be an infant, it shall be lawful for the person by whom such money shall be payable to pay the same into the Bank of England in the name and with the privity of the accountant general of the court of chancery or of the court of exchequer, to be placed to his account in trust in any cause then depending in the said court concerning such money, or, if there shall be no such cause, to the credit of such infant, subject to the order and disposition of the said court respectively, or to such person or persons or in such other manner as the said court respectively shall direct; and the said court shall and is hereby empowered to order any money which shall so be paid into court to be invested in the public funds, and to order distribution thereof, or payment of the dividends thereof, as to the said court shall seem reasonable; and every cashier of the Bank of England who shall receive any such money is hereby required to give to the person paying the same a receipt for such money; and such receipt shall be an effectual discharge for the money therein respectively expressed to have been received.

Mortgage money belonging to infants to be paid into the bank, or as the court shall direct.

XV. That every person, being in other respects within the meaning of this act, shall be and be deemed to be a trustee within the meaning of this act, notwithstanding he may have some beneficial estate or interest in the same subject, or may have some duty as trustee to perform; but in every such case, and in every case of a mortgagee (not being a naked trustee), it shall be in the discretion of the said lord chancellor, intrusted as aforesaid, or the said court of chancery, if under the circumstances it shall seem requisite, to direct a bill to be filed to establish the right of the party seeking the conveyance or transfer, and not to make the order for such conveyance or transfer unless by the decree to be made in such cause, or until after such decree shall have been made.

Act to extend to trustees having an interest, or having duty to perform.

XVI. That where any land shall have been contracted to be sold, and the vendor or any of the vendors shall have departed this life, either having received the purchase money for the same or some part thereof, or not having received any part thereof, and a specific performance of such contract, either wholly or as far as the same remains to be executed, or as far as the same by reason of the infancy can be execu-

Representatives of vendors to be trustees within this act, after a decree for specific performance; and

(1) The statute only applies to a *cestui que trust* who is named in the instrument upon which his title depends, or to a person who claims directly under a *cestui que trust*, so named, as real or personal representative, or as assignee. In the matter of *Merry*, 1 *Mylne & Keen*, 677.

No. III.
1 W. 4, c. 60.

persons in
whose names
purchases are
made to be
such trustees.

Tenants for life,
&c. of estates
devised in set-
tlement, and
contracted to
be sold, may be
directed to con-
vey, after a de-
cree for specific
performance.

Act to extend to
other construc-
tive and result-
ing trusts,
when declared
by decree.

Husbands of
female trustees
to be deemed
trustees within
the act.

Provisions as to
lunacy to ex-
tend to all per-
sons compella-
ble to convey.

ted, shall have been decreed by the court of chancery in the lifetime of such vendor or after his decease, and where one person shall have purchased an estate in the name of another, but the nominal purchaser shall, on the face of the conveyance, appear to be the real purchaser, and there shall be no declaration of trust from him, and a decree of the said court, either before or after the death of such nominal purchaser, shall have declared such nominal purchaser to be a trustee for the real purchaser, then and in every such case the heir of such vendor, or such nominal purchaser or his heir, in whom the premises shall be vested, shall be and be deemed to be a trustee for the purchaser within the meaning of this act.

XVII. That where any land shall have been contracted to be sold, and the vendor or any of the vendors shall have departed this life, having devised the same in settlement so as to be vested in any person for life or other limited interest, with any remainder, limitation, or gift over which may not be vested, or may be vested in some person from whom a conveyance of the same cannot be obtained, or by way of executory devise, and a specific performance of such contract, either wholly or so far as the same remained to be executed, shall have been decreed by the court of chancery, it shall be lawful for the court by whom such decree shall be made, by the same or any other decree, or any decretal order, or upon petition in the cause, to direct any such tenant for life or other person having a limited interest, or the first executory devisee thereof, to convey the fee simple or other the whole estate contracted to be sold to the purchaser, or in such manner as the said court shall think proper; and every such conveyance shall be as effectual as if the person who shall make the same were seised of the fee simple or other the whole estate contracted to be sold.

XVIII. That the several provisions herein-before contained shall extend to every other case of a constructive trust, or trust arising or resulting by implication of law; but in every such case where the alleged trustee has or claims a beneficial interest adversely to the party seeking a conveyance or transfer, no order shall be made for the execution of a conveyance or transfer by such alleged trustee until after it has been declared by the court of chancery, in a suit regularly instituted in such court, that such person is a trustee for the person so seeking a conveyance or transfer; but this act shall not extend to cases upon partition, or cases arising out of the doctrine of election in equity, or to a vendor, except in any case herein-before expressly provided for. (1)

XIX. That where any feme covert would be a trustee, mortgagee, heir, or executor within the provisions of this act, if she were an infant or lunatic, or out of the jurisdiction or not amenable to the process of the court of chancery or exchequer, or had refused or neglected as aforesaid to execute or make such conveyance, transfer, receipt, or payment as herein-before is mentioned, and the concurrence of her husband shall be necessary in any conveyance, transfer, receipt, or payment which ought to be made or executed by her as such trustee, mortgagee, heir, or executor, then and in any such case such husband, whether under any disability or not, shall be and be deemed to be a trustee within the meaning of this act.

XX. That the provisions herein-before contained for obtaining conveyances from any person being lunatic shall extend to and include all persons being lunatic who, by force of any law for payment of debts out of real estate, would or hereafter may be compellable to convey any land if of sound mind.

(1) Where a mortgagee in fee died intestate as to the mortgaged premises, but having bequeathed her personal estate to B, who presented a petition under this statute praying that some person might be appointed in the place of the mortgagee's heir, who could not be found to convey the premises to him. The court held the act was not intended to apply to such a case, and refused to make any order. *In re Stanley*, 5 *Simons*, 320.

XXI. That the provisions herein-before contained shall extend and be construed to extend to all cases of petitions in which the lord chancellor, intrusted as aforesaid, or the court of chancery, or any of the judges thereof, is by law authorized and empowered to grant relief and make summary orders without suit, either in matters of charity, or relative to or for the better security, or for the application, receipt, payment, or transfer of any of the funds thereof, or in matters relative to any benefit or friendly societies, or for the better security, or for the application, receipt, payment, or transfer of any of the funds thereof.

No. III.
1 W. 4, c. 60.
Act to extend to petitions in cases of charity and friendly societies.

XXII. And whereas cases may occur, upon applications by petition under this act for a conveyance or transfer, where the recent creation or declaration of the trust or other circumstances may render it safe and expedient for the lord chancellor, intrusted as aforesaid, or the court of chancery, (as the case may require,) to direct, by an order upon such petition, a conveyance or transfer to be made to a new trustee or trustees, without compelling the parties seeking such appointment to file a bill for that purpose, although there is no power in any deed or instrument creating or declaring the trusts of such land or stock to appoint new trustees; be it therefore further enacted, That in any such case it shall be lawful for the lord chancellor, intrusted as aforesaid, or the said court of chancery, to appoint any person to be a new trustee, by an order to be made on a petition to be presented for a conveyance or transfer under this act, after hearing all such parties as the said court shall think necessary; and thereupon a conveyance or transfer shall and may be made and executed, according to the provisions herein-before contained, to or so as to vest such land or stock in such new trustee, either alone or jointly with any surviving or continuing trustee, as effectually and in the same manner as if such new trustee had been appointed under a power in any instrument creating or declaring the trusts of such land or stock, or in a suit regularly instituted. (1)

In certain cases the lord chancellor or court of chancery may appoint new trustees, upon petition.

XXIII. That where all the persons in whom any land may have been vested, in trust for any charity or charitable or public purpose, shall be dead, it shall be lawful for the court of chancery, on the petition of the persons or body administering such charity or superintending such public purpose, or of any person on behalf thereof, to direct any master or other officer of the said court to cause two successive advertisements to be inserted in the *London Gazette* and in one or more of the newspapers circulated in the county, city, or place where such land shall be situated, giving notice that the representative of the last surviving trustee do within twenty-eight days appear or give notice of his title to such master or other officer, and prove his pedigree or other title as trustee; and if no person shall appear to give such notice within such twenty-eight days, or the person who may appear or give such notice shall not, within thirty-one days after such appearance or notice, prove his title to the satisfaction of such master or other officer, then and in such case it shall be lawful for the said court to appoint any new trustees for such charity or charitable or public purpose; and such land may be conveyed to such new trustees by any person whom the said court respectively may direct for that purpose, by virtue of the provisions in this act, without the necessity of any decree.

Court of chancery empowered to appoint new trustees of charities.

XXIV. That where in any suit commenced or to be commenced in the court of chancery it shall be made to appear to the court by affidavit that diligent search and inquiry has been made after any person made a defendant who is only a trustee, to serve him with the process of the court, and that he cannot be found, it shall be lawful for the said court to hear and determine such cause, and to make such absolute decrees therein against every person who shall appear to them to be only a trustee, and not otherwise concerned in interest in the matter in question, in such and the same manner as if such trustee had been duly

Manner of proceeding where trustees, defendants in equity, cannot be found.

(1) A new trustee was appointed under this act without a reference to the master, the petitioner being the only person interested in the property. *Ex parte Shick*, 5 Simons, 281.

No. III.
1 W. 4, c. 60.

Costs may be directed to be paid.

Powers given to the lord chancellor of Great Britain; which may be exercised by the lord chancellor of Ireland.

Powers given to the lord chancellor to extend to the lord keeper and commissioners.

Powers given to the court of chancery in England; which may be exercised by the court of exchequer.

Powers given to courts in England may be exercised by the same courts in Ireland.

Who shall be named in the orders of the court for making transfers.

Act to be an indemnity to the bank and other companies.

served with the process of the court, and had appeared and filed his answer thereto, and had also appeared by his counsel and clerk at the hearing of such cause: Provided always, That no such decree shall bind, affect, or in anywise prejudice any person against whom the same shall be made, without service of process upon him as aforesaid, his heirs, executors, or administrators, for or in respect of any estate, right, or interest which such person shall have at the time of making such decree, for his own use or benefit, or otherwise than as a trustee as aforesaid.

XXV. That the lord chancellor, intrusted as aforesaid, and the court of chancery, may order the costs and expences of and relating to the petitions, orders, directions, conveyances, and transfers to be made in pursuance of this act, or any of them, to be paid and raised out of or from the land or stock or the rents or dividends in respect of which the same respectively shall be made, or in such other manner as the said lord chancellor or court shall think proper.

XXVI. That the powers and authorities given by this act to the lord chancellor of Great Britain, intrusted as aforesaid, shall extend to all land and stock within any of the dominions, plantations, and colonies belonging to his Majesty (except Scotland and Ireland).

XXVII. That the powers and authorities given by this act to the lord chancellor of Great Britain, intrusted as aforesaid, shall and may be exercised in like manner by and are hereby given to the lord chancellor of Ireland, intrusted as aforesaid, with respect to all land and stock in Ireland.

XXVIII. That the powers and authorities given by this act to the lord chancellor of Great Britain, intrusted as aforesaid, shall and may be exercised in like manner by and are hereby given to the lord keeper or commissioners of the great seal of Great Britain for the time being, intrusted as aforesaid; and the powers and authorities given by this act to the lord chancellor of Ireland, intrusted as aforesaid, shall and may be exercised in like manner by and are hereby given to the lord keeper or commissioners of the great seal of Ireland for the time being, intrusted as aforesaid.

XXIX. That the powers and authorities given by this act to the court of chancery in England shall extend to all land and stock within any of the dominions, plantations, and colonies belonging to his Majesty (except Scotland).

XXX. That the powers and authorities given by this act to the court of chancery, and the provisions contained in this act relating to the said court, shall and may be exercised in like manner by and are hereby given and extended to the court of exchequer.

XXXI. That the powers and authorities given by this act to the courts of chancery and exchequer in England, and the provisions contained in this act relating to the same courts, shall and may be exercised in like manner and are hereby given and extended to the several courts of chancery and exchequer in Ireland, with respect to all land and stock in Ireland.

XXXII. Provided always, and be it further enacted, That in all cases in which orders shall be made, in pursuance of this act, for the transfer of stock, the person to be named in such order for making such transfer shall either be the committee of the estate of the person being lunatic in whose place such transfer shall be made, or a co-trustee or co-executor of the person in whose place such person shall be directed to transfer, or some officer of the company or society in whose books the same respectively shall be directed to be made; and where such transfer shall be directed to be made in books kept by the governor and company of the Bank of England, such officer shall be the secretary or deputy secretary or accountant general for the time being of the said governor and company, or his deputy.

XXXIII. That this act shall be and is hereby declared to be a full and complete indemnity and discharge to the governor and company of the Bank of England, and all other companies and societies, and their

officers and servants, for all acts and things done or permitted to be done pursuant thereto, and that such acts and things shall not be questioned or impeached in any court of law or equity to their prejudice or detriment.

No. III.

1 W. 4, c. 60.

[No. IV.] 3 & 4 W. IV. c. 104.—An Act to render Freehold and Copyhold Estates Assets for the Payment of Simple and Contract Debts. [29th August 1833.]

WHEREAS it is expedient that the payment of the debts of all persons should be secured more effectually than is done by the laws now in force; be it therefore enacted, &c., That from and after the passing of this act, when any person shall die seized of or entitled to any estate or interest in lands, tenements, or hereditaments, corporeal or incorporeal, or other real estate, whether freehold, customaryhold, or copyhold, which he shall not by his last will have charged with or devised subject to the payment of his debts, the same shall be assets to be administered in courts of equity for the payment of the just debts of such persons, as well debts due on simple contract as on specialty; and that the heir or heirs at law, customary heir or heirs, devisee or devisees of such debtor, shall be liable to all the same suits in equity at the suit of any of the creditors of such debtor, whether creditors by simple contract or by specialty, as the heir or heirs at law, devisee or devisees of any person or persons who died seized of freehold estates was or were before the passing of this act liable to in respect of such freehold estates at the suit of creditors by specialty in which the heirs were bound: Provided always, That in the administration of assets by courts of equity under and by virtue of this act all creditors by specialty in which the heirs are bound shall be paid the full amount of the debts due to them before any of the creditors by simple contract or by specialty in which the heirs are not bound shall be paid any part of their demands.

Freehold and copyhold estates in all cases to be assets for the payment of simple contract or specialty debts.

[No. V.] 3 & 4 W. 4, c. 105.—An Act for the Amendment of the Law relating to Dower. [29th August 1833.]

BE it enacted, &c., That the words and expressions herein-after mentioned, which in their ordinary signification have a more con- fined or a different meaning, shall in this act, except where the nature of the provision or the context of the act shall exclude such construction, be interpreted as follows; that is to say, the word "Land" shall extend to manors, advowsons, messuages, and all other hereditaments, whether corporeal or incorporeal (except such as are not liable to dower), and to any share thereof; and every word importing the singular number only shall extend and be applied to several persons or things as well as one person or thing.

Number.

II. That when a husband shall die, beneficially entitled to any land for an interest which shall not entitle his widow to dower out of the same at law, and such interest, whether wholly equitable, or partly legal and partly equitable, shall be an estate of inheritance in possession, or equal to an estate of inheritance in possession, (other than an estate in jointenancy,) then his widow shall be entitled in equity to dower out of the same land.

Widows to be entitled to dower out of equitable estates.

III. That when a husband shall have been entitled to a right of entry or action in any land, and his widow would be entitled to dower out of the same if he had recovered possession thereof, she shall be entitled to dower out of the same although her husband shall not have recovered possession thereof; provided that such dower be sued for or

Seisin shall not be necessary to give title to dower.

No. V.
3 & 4 W. 4,
c. 106.

No dower
out of estates

Priority to par-
tial estates,
charges, and
specialty debts.

Dower may be
barred by a de-
claration in a
deed ;

or by a decla-
ration in the
husband's will.

Dower shall be
subject to re-
strictions.

Devise of real
estate to the
widow shall
bar her dower.

Bequest of per-
sonal estate to
the widow shall
not bar her
dower.

Agreement not
to bar dower
may be en-
forced.

Legacies in bar
of dower still
entitled to pre-
ference.

Certain dowers
abolished.

Act not to take
effect before
the 1st January
1834.

Meaning of
words in the
act :

" Land."

obtained within the period during which such right of entry or action might be enforced.

IV. That no widow shall be entitled to dower out of any land which shall have been absolutely disposed of by her husband in his lifetime, or by his will.

V. That all partial estates and interests, and all charges created by any disposition or will of a husband, and all debts, incumbrances, contracts, and engagements to which his land shall be subject or liable, shall be valid and effectual as against the right of his widow to dower.

VI. That a widow shall not be entitled to dower out of any land of her husband when in the deed by which such land was conveyed to him, or by any deed executed by him, it shall be declared that his widow shall not be entitled to dower out of such land.

VII. That a widow shall not be entitled to dower out of any land of which her husband shall die wholly or partially intestate when by the will of her husband, duly executed for the devise of freehold estates, he shall declare his intention that she shall not be entitled to dower out of such land, or out of any of his land.

VIII. That the right of a widow to dower shall be subject to any conditions, restrictions, or directions which shall be declared by the will of her husband, duly executed as aforesaid.

IX. That where a husband shall devise any land out of which his widow would be entitled to dower if the same were not so devised, or any estate or interest therein, to or for the benefit of his widow, such widow shall not be entitled to dower out of or in any land of her said husband, unless a contrary intention shall be declared by his will.

X. That no gift or bequest made by any husband to or for the benefit of his widow of or out of his personal estate, or of or out of any of his land not liable to dower, shall defeat or prejudice her right to dower, unless a contrary intention shall be declared by his will.

XI. Provided always, That nothing in this act contained shall prevent any court of equity from enforcing any covenant or agreement entered into by or on the part of any husband not to bar the right of his widow to dower out of his lands, or any of them.

XII. That nothing in this act contained shall interfere with any rule of equity, or of any ecclesiastical court, by which legacies bequeathed to widows in satisfaction of dower are entitled to priority over other legacies.

XIII. That no widow shall hereafter be entitled to dower *ad ostium ecclesie*, or dower *ex assensu patris*.

XIV. That this act shall not extend to the dower of any widow who shall have been or shall be married on or before the first day of January one thousand eight hundred and thirty-four, and shall not give to any will, deed, contract, engagement, or charge executed, entered into, or created before the said first day of January one thousand eight hundred and thirty-four, the effect of defeating or prejudicing any right to dower.

[No. VI.] 3 & 4 W. 4, c. 106.—An Act for the Amendment of the Law of Inheritance. [29th August 1833.]

BE it enacted, &c. That the words and expressions herein-after mentioned, which in their ordinary signification have a more confined or a different meaning, shall in this act, except where the nature of the provision or the context of the act shall exclude such construction, be interpreted as follows ; (that is to say,) the word "land" shall extend to manors, advowsons, messuages, and all other hereditaments, whether corporeal or incorporeal, and whether freehold or copyhold, or of any other tenure, and whether descendible according to the common law, or according to the custom of gavelkind or borough-English, or any

other custom, and to money to be laid out in the purchase of land, and to chattels and other personal property transmissible to heirs, and also to any share of the same hereditaments and properties or any of them, and to any estate of inheritance, or estate for any life or lives, or other estate transmissible to heirs, and to any possibility, right, or title of entry or action, and any other interest capable of being inherited, and whether the same estates, possibilities, rights, titles, and interests, or any of them, shall be in possession, reversion, remainder, or contingency; and the words "the purchaser" shall mean the person who last acquired the land otherwise than by descent, or than by any escheat, partition, or inclosure, by the effect of which the land shall have become part of or descendible in the same manner as other land acquired by descent; and the word "descent" shall mean the title to inherit land by reason of consanguinity, as well where the heir shall be an ancestor or collateral relation, as where he shall be a child or other issue; and the expression "descendants" of any ancestor shall extend to all persons who must trace their descent through such ancestor; and the expression "the person last entitled to land" shall extend to the last person who had a right thereto, whether he did or did not obtain the possession or the receipt of the rents and profits thereof; and the word "assurance" shall mean any deed or instrument (other than a will) by which any land shall be conveyed or transferred at law or in equity; and every word importing the singular number only shall extend and be applied to several persons or things as well as one person or thing; and every word importing the masculine gender only shall extend and be applied to a female as well as a male.

No. VI.
3 & 4 W. 4,
c. 106.

II. That in every case descent shall be traced from the purchaser; and to the intent that the pedigree may never be carried further back than the circumstances of the case and the nature of the title shall require, the person last entitled to the land shall, for the purposes of this act, be considered to have been the purchaser thereof unless it shall be proved that he inherited the same, in which case the person from whom he inherited the same shall be considered to have been the purchaser unless it shall be proved that he inherited the same; and in like manner the last person from whom the land shall be proved to have been inherited shall in every case be considered to have been the purchaser, unless it shall be proved that he inherited the same.

III. That when any land shall have been devised, by any testator who shall die after the thirty-first day of December one thousand eight hundred and thirty-three, to the heir or to the person who shall be the heir of such testator, such heir shall be considered to have acquired the land as a devisee, and not by descent; and when any land shall have been limited, by any assurance executed after the said thirty-first day of December one thousand eight hundred and thirty-three, to the person or to the heirs of the person who shall thereby have conveyed the same land, such person shall be considered to have acquired the same as a purchaser by virtue of such assurance, and shall not be considered to be entitled thereto as his former estate or part thereof.

IV. That when any person shall have acquired any land by purchase under a limitation to the heirs or to the heirs of the body of any of his ancestors, contained in an assurance executed after the said thirty-first day of December one thousand eight hundred and thirty-three, or under a limitation to the heirs or to the heirs of the body of any of his ancestors, or under any limitation having the same effect, contained in a will of any testator who shall depart this life after the said thirty-first day of December one thousand eight hundred and thirty-three, then and in any of such cases such land shall descend, and the descent thereof shall be traced as if the ancestor named in such limitation had been the purchaser of such land.

V. That no brother or sister shall be considered to inherit immediately from his or her brother or sister, but every descent from a brother or sister shall be traced through the parent.

"The purchaser."

"Descendants."

"Person last entitled."

"Assurance."

Number and gender.

Descent shall always be traced from the purchaser, but the last owner shall be considered to be the purchaser, unless the contrary be proved.

Heir entitled under a will shall take as devisee, and a limitation to the grantor or his heirs shall create an estate by purchase.

Where heirs take by purchase under limitations to the heirs of their ancestor, the land shall descend as if the ancestor, had been the purchaser.

Brothers, &c. shall trace descent through their parent.

No. VI.
3 & 4 W. 4,
c. 106.

Lineal ancestor may be heir in preference to collateral persons claiming through him.

The male line to be preferred.

The mother of more remote male ancestor to be preferred to the mother of the less remote male ancestor.

Half blood, if on the part of a male ancestor, to inherit after the whole blood of the same degree; if on the part of a female ancestor, after her.

After the death of a person attainted, his descendants may inherit.

Act not to extend to any descent before Jan. 1834.

Limitations made before the 1st Jan. 1834, to the heirs of a person then living, shall take effect as if the act had not been made.

VI. That every lineal ancestor shall be capable of being heir to any of his issue: and in every case where there shall be no issue of the purchaser, his nearest lineal ancestor shall be his heir in preference to any person who would have been entitled to inherit, either by tracing his descent through such lineal ancestor, or in consequence of there being no descendant of such lineal ancestor, so that the father shall be preferred to a brother or sister, and a more remote lineal ancestor to any of his issue, other than a nearer lineal ancestor or his issue.

VII. That none of the maternal ancestors of the person from whom the descent is to be traced, nor any of their descendants, shall be capable of inheriting until all his paternal ancestors and their descendants shall have failed; and also that no female paternal ancestor of such person, nor any of her descendants, shall be capable of inheriting until all his male paternal ancestors and their descendants shall have failed, and that no female maternal ancestor of such person, nor any of her descendants shall be capable of inheriting until all his male maternal ancestors and their descendants shall have failed.

VIII. That where there shall be a failure of male paternal ancestors of the person from whom the descent is to be traced, and their descendants, the mother of his more remote male paternal ancestor, or her descendants, shall be the heir or heirs of such person, in preference to the mother of a less remote male paternal ancestor, or her descendants; and where there shall be a failure of male maternal ancestors of such person, and their descendants, the mother of his more remote male maternal ancestor, and her descendants, shall be the heir or heirs of such person, in preference to the mother of a less remote male maternal ancestor, and her descendants.

IX. That any person related to the person from whom the descent is to be traced by the half blood shall be capable of being his heir; and the place in which any such relation by the half blood shall stand in the order of inheritance, so as to be entitled to inherit, shall be next after any relation in the same degree of the whole blood, and his issue, where the common ancestor shall be a male, and next after the common ancestor where such common ancestor shall be a female, so that the brother of the half blood on the part of the father shall inherit next after the sisters of the whole blood on the part of the father and their issue, and the brother of the half blood on the part of the mother shall inherit next after the mother.

X. That when the person from whom the descent of any land is to be traced shall have had any relation who, having been attainted, shall have died before such descent shall have taken place, then such attainer shall not prevent any person from inheriting such land who would have been capable of inheriting the same, by tracing his descent through such relation, if he had not been attainted, unless such land shall have escheated in consequence of such attainer before the first day of January one thousand eight hundred and thirty-four.

XI. That this act shall not extend to any descent which shall take place on the death of any person who shall die before the said first day of January one thousand eight hundred and thirty-four.

XII. That where any assurance executed before the said first day of January one thousand eight hundred and thirty-four, or the will of any person who shall die before the same first day of January one thousand eight hundred and thirty-four, shall contain any limitation or gift to the heir or heirs of any person, under which the person or persons answering the description of heir shall be entitled to an estate by purchase, then the person or persons who would have answered such description of heir if this act had not been made shall become entitled by virtue of such limitation or gift, whether the person named as ancestor shall or shall not be living on or after the said first day of January one thousand eight hundred and thirty-four.

[No. VII.] 4 & 5 W. 4. c. 23.—An Act for the Amendment of the Law relative to the Escheat and Forfeiture of Real and Personal Property holden in Trust.

No. VII.

4 & 5 W. 4.
c. 23.

[27th June 1834.]

WHEREAS great inconvenience has been found to result to persons beneficially entitled to real or personal property by the escheating or forfeiture thereof to his Majesty, to corporations, to lords of manors, and others, in consequence of the death without heirs, or the conviction for treason or felony, of a trustee in whom or in whose name the same is vested: and whereas it is expedient that the same should be remedied: and inasmuch as, in order to avoid repetition, certain words are used in this act as describing subjects some of which, according to their usual sense, such words would not embrace; for the understanding of the sense attached to them in this act, be it therefore enacted, &c., That the provisions of this act shall extend to and include the several estates and persons, matters and things herein-after mentioned; (that is to say,) those relating to land, to any manor, messuage, tenement, hereditament, or real property, whether freehold, customaryhold, copyhold, or of any tenure whatever; those relating to chattels, to personal property of every description capable of being transferred or disposed of otherwise than in books kept by any company or society, or to any share thereof or interest therein; those relating to stock, to any fund, annuity, or security transferable in books kept by any company or society established or to be established, or to any money payable for the discharge and redemption thereof, or to any share or interest therein; those relating to dividends, to interest, or other annual produce; those relating to a conveyance, to any lease and release, surrender, or other assurance of real property, including all acts and deeds necessary for making and perfecting the same; those relating to an assignment, to any surrender, delivery, or other disposition of the personal property, and to all acts, deeds, and things necessary for making and perfecting the same; those relating to a transfer, to any payment or other disposition of stock; those relating to an heir, to any devisee or other real representative, by the common law, or by custom, or otherwise; and those relating to any executor, to any administrator or other personal representative; unless there be something in the subject or context repugnant to such construction; and whenever this act, in describing or referring to any trustee or other person, or any trust, land, stock, conveyance, assignment, transfer, grant, matter, or thing, uses the word importing the singular number or the masculine gender only, the same shall be understood to include and shall be applied to several persons as well as one person, and females as well as males, and bodies corporate as well as individuals, and several trusts, lands, stocks, conveyances, assignments, transfers, grants, matters, or things respectively as well as one trust, land, stock, conveyance, assignment, transfer, grant, matter, or thing respectively, unless there be something in the subject or context repugnant to such construction.

Description of estates and matters included in the provisions of this act, and construction of terms used.

II. That where any person seized of any land upon any trust or by way of mortgage dies without an heir, it shall be lawful for the court of chancery to appoint a person to convey such land in like manner as is provided by the act of the eleventh year of king George the fourth and the first year of his present Majesty, intituled *An Act for amending the Laws respecting Conveyances and Transfers of Estates and Funds vested in Trustees and Mortgagees, and for enabling Courts of Equity to give effect to their Decrees and Orders in certain Cases*, in case such trustee or mortgagee had left an heir, and it was not known who was such heir; and such conveyance shall be as effectual as if there was such heir.

III. That no land, chattels, or stock vested in any person upon any trust or by way of mortgage, or any profits thereof, shall escheat or be forfeited to his Majesty, his heirs or successors, or to any corporation,

If trustee or mortgagee of any land die without an heir, the court of chancery may appoint a person to convey.

Lands, &c. vested in any trustee shall not be esche

No. VII.
4 & 5 W. 4,
c. 23.

ed by reason of taken place.

the attainder or conviction of such trustee.

To whom and IV. That the several provisions of this act shall extend to every case of a trustee having some beneficial estate or interest in the same subject, or some duty as trustee to perform, and also to every case of a trust arising or resulting by implication of law or by construction of equity.

This act not to prevent the escheat of any beneficial interest. V. Provided always, That nothing contained in this act shall prevent the escheat or forfeiture of any land, chattels, or stock vested in any such trustee or mortgagee, so far as relates to any beneficial interest therein of any such trustee or mortgagee, but such land, chattels, or stock, so far as relates to any such beneficial interest, shall be recoverable in the same manner as if this act had not passed.

Where any person possessing lands, &c., as a trustee shall have died without heirs, or have been convicted, before the passing of this act, the lands, &c., shall become subject to the control of the court of chancery. VI. And whereas it is expedient to relieve persons beneficially entitled to real or personal property which has already escheated or become forfeited to his Majesty, to corporations, to lords of manors, or others, by any of the means aforesaid; be it therefore enacted, That in all cases where before the passing of this act any person possessed of or entitled to any land, chattels, or stock, or any right to or interest in any land, chattels, or stock, as a trustee thereof, either in whole or in part, or jointly with some other trustee or trustees, shall have died without an heir, or shall have been convicted of any offence whereby the said land, chattels, or stock, or any of them, have escheated or been forfeited, or have become subject to any escheat or forfeiture, then and in every or any such case the said land, chattels, or stock, or the right thereto or interest therein which hath escheated or been forfeited, or become subject to escheat or forfeiture by reason thereof, shall be subject to the order, control, and disposition of the court of chancery, for the use of the party beneficially interested therein, in such manner, and subject in all respects to such rights and incidents, and to such orders and regulations of the said court, under the provisions of the said act of the eleventh year of king George the fourth and of the first year of his present Majesty, as if such person so dead without an heir, or so convicted, as aforesaid, were out of the jurisdiction of or not amenable to the process of the said court, without having been so convicted: Provided always, that nothing in this clause contained shall extend to any land, chattels, or stock now vested in any person by virtue of any grant thereof made subsequently to the time when such escheat or forfeiture first occurred, or to any land, chattels, or stock which more than twenty years prior to the passing of this act shall have been actually vested in possession or reduced into possession by the party entitled thereto by virtue of any such escheat or forfeiture.

Proviso.

[By the 39 & 40 G. 3, c. 88. 47 G. 3, st. 2, c. 24, & 59 G. 3, c. 94. (See *Evans's Stat.* Part II. Class 12.) the crown was empowered to direct the execution of any trusts, to which lands becoming vested in it, by escheat for want of heirs, or by forfeiture might be subject, and to make grants for such purposes, or for restoring them to the family, &c., and that either unconditionally or on payment of any sum of money, or to grant the lands to trustees, to be sold and the money applied as the crown should direct. Under these statutes an inquisition was necessary to find the right of the crown, before a grant could be made, and one of the objects of the above act was to supersede the necessity of such inquisition and grant, by enabling the court of chancery to order the estate to be conveyed according to the provisions of the 11 G. 4, & 1 W. 4, c. 60, ss. 8, 9, 11 (see *ante*, p. 96.)

[No. VIII.] 4 & 5 W. IV. c. 29.—An Act for facilitating the Loan of Money upon Landed Securities in Ireland. (1)

No. VIII.
4 W. 5, c. 29.

[23th July 1834.]

WHEREAS in last wills and other testamentary dispositions, and in marriage and other settlements of real and personal property, and in other deeds, agreements, or writings, a direction, trust, or power is often given, created, or reserved to lay out or invest money at interest on real securities, in England, Wales, or Great Britain, or to sell and convert into money real or leasehold estates, or government or parliamentary securities, or securities of foreign states, or other property, and to lay out or invest the money arising from such sale and conversion on real securities: And whereas from the abundance of capital in Great Britain the interest of money is very much reduced, and the interest to be procured on money in Ireland is much higher than the interest to be procured on money in Great Britain: And whereas manifest improvement has taken place in the condition and security of landed property in Ireland, which it is desirable to encourage and advance: And whereas it would be highly beneficial to both Great Britain and Ireland if the loan of money on landed securities in Ireland was facilitated: Be it therefore enacted, &c. That from and after the passing of this act it shall be lawful for any person or persons who, under or by virtue of any direction, trust, or power already given, created, or reserved, or hereafter to be given, created, or reserved as aforesaid, is or are or shall be authorized or directed to lend money at interest on real securities, in England, Wales, or Great Britain, to lend the same or any part thereof at interest on real securities in Ireland in the same manner in all respects as if such investment had been expressly authorized in or by such direction, trust, or power as aforesaid; and such person or persons shall not, on account of his or their so lending money on real securities in Ireland, be considered in a court of equity guilty of any breach of trust, or held accountable further or otherwise than if the money had been laid out by him or them on real securities in England, Wales, or Great Britain.

Power to lend money on real securities in Ireland the same as in England, &c.

II. Provided always, That all loans of money on real securities in Ireland under this act in which any minor or unborn child or person of unsound mind is or may be interested shall be made by the direction and under the authority of the court of chancery or exchequer in England, such direction or authority being obtained in any cause upon petition in a summary way.

Proviso for loans where minors, &c. are interested.

III. That in all cases of trustees or public bodies lending money on real securities in Ireland under the authority of this act, it shall be lawful for any court of equity in England to make all such orders and decrees for enforcing payment of the principal and interest thereby secured, or any part thereof, as if the said lands and hereditaments were situate in England or Wales; and it shall be lawful for the party or parties obtaining such orders or decrees to cause a copy of such orders or decrees, under the seal of the court by which the same shall have been made, to be exemplified, and certified to the lord chancellor, lord keeper or lords commissioners of the great seal of Ireland for the time being, or to the barons of his Majesty's court of exchequer in Ireland, whereon the said lord chancellor, lord keeper or lords commissioners for the custody of the said great seal of Ireland, or the said barons of the said court of exchequer in Ireland, shall forthwith cause such copy of such order or decree, when it shall be presented to them respectively so exemplified, to be enrolled, either in the rolls of the court

Loans by trustees, or public bodies.

(1) The object of this act is to enable trustees or public bodies to lend money on real securities in Ireland, although the trust or power under which they act only authorizes the money to be invested in England, Wales, or Great Britain. By the 14 G. 3, c. 79, s. 2, the legal rate of interest in Ireland is 6 per cent. See the statute and the 1 & 2 G. 4, c. 51. *Evans's Statutes*—Part III, Class, 5, Usury.

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of chancery or in the said court of exchequer, as the case may be, and shall cause all such process to issue against the said lands and hereditaments comprised in the said securities, and the party or parties against whom such decrees or orders shall be obtained, and his, her, or their real and personal estate, goods, chattels, and effects, in Ireland, in order to enforce obedience to and performance of the same, in such manner and form, and with such force and effect, as if the cause wherein such order or decree shall have been made had been originally cognizable by and instituted in the said courts of chancery or exchequer in Ireland; and it shall be lawful for the said lord chancellor, lord keeper or lords commissioners of the great seal in Ireland, or the said barons of the said court of exchequer in Ireland, to make such order or orders in respect of or consequent upon such process against the party or parties, or in respect of the said lands, or the real and personal estate, goods, chattels, or effects of the said party or parties, as he or they shall from time to time think fit, or for payment of all or any of the monies levied or received by virtue thereof into the Bank of Ireland, with the privity of the accountant general of the said courts of chancery and exchequer in Ireland respectively, to the credit or for the benefit of the party or parties who shall have obtained such order or decree, or to the credit of the cause in which such order or decree shall have been made; and the governor and company of the Bank of Ireland are hereby authorized and required to receive and hold all such monies, subject to the orders of the said court of chancery in Ireland: Provided always, That no such monies shall be charged with or subject to poundage for the usher of the said court of chancery in Ireland, or otherwise, where the same shall be paid out by order of the said last-mentioned court: And provided always, That no security for costs shall be required to be given in Ireland by any party or parties enforcing in manner aforesaid the execution of such orders or decrees of any court of equity in England as herein-before mentioned.

Consent of persons interested to be had.

IV. Provided always, That every such loan shall be made with the consent of the person or persons, if any, whose consent may be required as to the investment of such money upon real securities in England, Wales, or Great Britain, testified in the manner required by such direction, trust, or power.

To what cases act not to extend.

V. Provided also, That the provisions of this act shall not apply to any case in which such direction, trust, or power as aforesaid doth or shall or may contain any express restriction against the investment of such money as aforesaid on securities in Ireland.

Act not to relieve persons intrusted with trust or power from responsibility as to title, &c.

VI. Provided always, That nothing contained in this act shall relieve or be construed to relieve any person or persons intrusted or clothed with such direction, trust, or power as aforesaid from any responsibility as to title, security, or otherwise either at law or in equity, save that having lent and advanced such money as aforesaid on real securities in Ireland instead of having invested such money on real securities in England, Wales, or Great Britain.

[No. IX.] 4 & 5 W. 4, c. 30.—An Act to facilitate the Exchange of Lands lying in Common Fields.

[25th July 1834.]

Proprietors of lands in common fields may exchange the same.

WHEREAS it is expedient to facilitate the exchange of pieces of land lying intermixed and dispersed in common fields, meadows, or pastures, for other pieces of land, either lying therein, or being part of the inclosed lands in the same or any adjoining parish: may it therefore please your Majesty that it may be enacted; and be it enacted, That from and after the passing of this act it shall be lawful for any person who shall be seised or possessed of or entitled in possession to any land in any common field, as tenant in fee simple, or in fee tail, general or special, or for life or lives, or by the curtesy of England, or for any

other estate of freehold, or for years determinable on any life or lives, or for any term of years whereof one hundred years shall be unexpired, and for the guardian, trustee, feoffee for charitable or other uses, husband, or committee of such person who at the time of making any exchange authorized by this act shall be an infant, idiot, lunatic, or feme covert, or under any other disability, by such deed and with such consent as herein-after mentioned to grant and convey such land or any part thereof to any other person in lieu of and in exchange for any other land, whether lying in the same or any other common field, or for any inclosed land lying within the same or any adjoining parish, and to accept and take from such other person any land in lieu of and in exchange for the land in such common field.

II. That it shall be lawful for any person who shall be seised or possessed of or entitled in possession to any land which it may be desirable to exchange for the land in such common field, whether such person shall be tenant in fee simple, or in fee tail, general or special, or for life or lives, or by the curtesy of England, or for any other estate of freehold, or for years determinable on any life or lives, or for any term of years whereof one hundred years shall be unexpired, and for the guardian, trustee, feoffee for charitable or other uses, husband, or committee of such person who shall be an infant, idiot, lunatic, or feme covert, or under any other disability, to consent and agree to such exchange, and to grant and convey such land to the person proposing to make such exchange in lieu of and in exchange for the land lying in such common field, subject to the provisions herein-after contained.

III. Provided always, That when any such exchange shall be made by any person having a less estate or interest than in fee simple in the land to be by him granted or conveyed in exchange, or shall be made by any person under any disability, the land to be so taken in exchange shall at the time of making such exchange be, or shall by the payment of a sufficient sum for equality of exchange be made, of equal value with or not of less value than the land to be granted or conveyed inexchange.

IV. That whenever any exchange shall be proposed to be made under the authority of this act, and either of the parties thereto shall have a less estate or interest in the land to be by him granted or conveyed in exchange than a fee simple, or shall be under any disability, such exchange shall not be completed unless the person to whom the next immediate vested estate of freehold in remainder or reversion shall have been limited (provided such person shall be of the full age of twenty-one years, and being a female shall be unmarried,) shall consent thereto, and shall testify such consent by signing the draft deed of exchange herein-after mentioned, and such consent shall be sufficient for the purpose of authorizing such exchange notwithstanding the person giving the same may have an equitable estate only in the land intended to be conveyed in exchange, or may have previously disposed of or charged or incumbered his reversionary estate therein: Provided always, that if the person to whom such next immediate vested estate in remainder or reversion may have been limited shall at the time of such exchange happen to be an infant or feme covert, or an idiot or lunatic, then and in such case it shall be lawful for the guardian or husband or committee of such infant, feme covert, idiot, or lunatic (such guardian, husband, or committee not being himself the person by whom the exchange is proposed to be made) to consent to such exchange, and to sign the draft deed of exchange in his or her stead; Provided further, that whenever the guardian or husband or committee of such infant, feme covert, idiot, or lunatic shall himself be the person by whom such exchange is proposed to be made, then and in such case it shall be lawful for the court of chancery, upon petition, to be preferred to the said court in a summary way, to appoint a person to act as protector to such infant, feme covert, idiot, or lunatic for the purposes of this act, and, if he shall think fit so to do, to consent to such exchange, and to sign the draft

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All persons enabled to give land in exchange for such common field land.

Land given in exchange by persons having limited interests to be of equal value with lands taken.

If exchange made by any person having only a limited interest, or being under disability, the consent of the person next in remainder to be obtained.

In case the person next in remainder should be an infant, &c.

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Consent of
patron and
bishop neces-
sary for ex-
change of land
held in right of
a church.

deed of exchange in the stead of such infant, feme covert, idiot, or lunatic, or of his or her guardian, husband, or committee.

V. Provided always, That no exchange shall be made of any land held in right of any benefice, without the consent of the patron thereof, and of the archbishop or bishop to whose ordinary or peculiar jurisdiction the said benefice may be subject, such consent to be signified by the patron and archbishop or bishop respectively signing the draft deed of exchange herein-after mentioned; and such consent, when so given and signified, shall be a sufficient authority for such exchange, any law or statute to the contrary notwithstanding: Provided always, That if the patronage of such benefice shall happen to be in the crown, and the benefice shall exceed the yearly value of twenty pounds in the king's books, it shall be lawful for the lord high treasurer or the first lord commissioner of the treasury for the time being, but if it shall not exceed the yearly value of twenty pounds in the king's books, then for the lord high chancellor, lord keeper, or lords commissioners of the great seal for the time being, to consent to such exchange and to sign the draft deed of exchange on behalf of the crown, and if the patronage of such benefice shall happen to be in the crown in right of the duchy of Lancaster it shall be lawful for the chancellor for the time being of the said duchy to consent to such exchange and to sign the draft deed of exchange on behalf of the crown; and if the patronage of such benefice shall be part of the possessions of the duchy of Cornwall it shall be lawful for the duke of Cornwall for the time being, if of full age, but if not of full age, or in case such benefice shall be within the patronage of the crown in right of the duchy of Cornwall, then for the same person who is herein-before authorized to consent on behalf of the crown in respect of a benefice in the patronage of the crown to consent to such exchange and to sign the draft deed of exchange on behalf either of the duke of Cornwall, or, as the case may be, on behalf of the crown in right of the duchy of Cornwall; and if the patron of such benefice shall happen to be a minor, idiot, lunatic, or feme covert, it shall and may be lawful for the guardian, committee, or husband of such patron to consent to such exchange and to sign the draft deed of exchange in the stead of such patron, and on his or her behalf.

Draft deed of
exchange to be
signed or sealed
by ecclesiasti-
cal person or
corporation
consenting.

VI. Provided always, That no exchange shall be made under the authority of this act by any bishop, dean, or other head of a chapter, archdeacon, prebendary, or other ecclesiastical corporation sole, unless, in the case of a bishop, with the consent of the archbishop of the province, to be signified by such archbishop signing the draft deed of exchange herein-after mentioned, or unless, in the case of a dean or other head of a chapter, with the consent of the chapter, to be signified by their affixing their common seal to the said draft deed of exchange, or unless, in the case of an archdeacon, prebendary, or other ecclesiastical corporation sole, with the consent of the archbishop or bishop of the diocese, to be signified by such archbishop or bishop signing the said draft deed of exchange.

Exchange to be
made in the
form given in
the schedule.

VII. That every exchange under the authority of this act shall be made according to the form in the schedule to this act annexed, or as near thereto as the number of parties and the circumstances of the case will admit, and shall, when executed by the respective parties, be valid and effectual in the law to all intents and purposes, without livery of seisin made or taken, or any other act done, by any person or party to perfect or complete the same.

In case of
copyholds, the
deed of ex-
change to be
entered on the
court rolls.

VIII. Provided always, That whenever any land held by copy of court roll shall be exchanged under the authority of this act, the deed of exchange, when executed by the respective parties, shall be produced to the lord of the manor of which the land may be parcel, or to his steward, or to the deputy of such steward, who shall cause the same to be entered on the court rolls of the manor.

Fees to stew-
ards.

IX. That the fees and charges to be demanded by and paid to any.

steward of a manor for entering on the court rolls of such manor any deed of exchange or other instrument required by this act to be entered thereon shall not exceed the sum of sixpence for every law folio of seventy-two words contained in such deed or other instrument.

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X. That whenever any exchange shall be made under the authority of this act by any archbishop, bishop, dean or other head of a chapter, dean or other head of a chapter and chapter, archdeacon, prebendary, or other ecclesiastical corporation, or by the incumbent of any benefice, the deed of exchange, when executed by the respective parties, shall, in the case of the exchange being made by an archbishop or bishop, be entered in his own registry, and in the case of the exchange being made by a dean or other head of a chapter, or by a dean or other head of a chapter and chapter, be entered in the registry of such chapter, and in the case of the exchange being made by an archdeacon, prebendary, or other ecclesiastical corporation, or by the incumbent of a benefice, be entered in the registry of the bishop of the diocese.

In case of church lands, deed to be entered in the proper ecclesiastical registry.

XI. That an office copy of any deed of exchange or other instrument which under the provisions of this act shall be entered on any such registry as aforesaid (such office copy being certified by the registrar or his deputy) shall be allowed as evidence thereof in all courts and places, and every person shall be entitled to require any such office copy, and shall also be allowed at all usual and proper times to search for and inspect any deed of exchange or other instrument which shall be so entered; and the registrar shall be entitled to charge for the entry of every such deed of exchange or other instrument after the rate of sixpence for every law folio of seventy-two words contained therein, and the sum of one shilling, and no more, for allowing any such search or inspection as aforesaid, and after the rate of sixpence for every law folio of seventy-two words in any office copy to be made and certified as aforesaid.

Office copies of instruments deposited in the registry to be evidence.

XII. That before any exchange shall be made under the authority of this act a draft of the intended deed of exchange, containing a correct description of the several lands proposed to be exchanged, and signed by the respective parties, and also by the several persons whose consent to such exchange is herein-before required to be given, and accompanied by an estimate of the value as well of the land proposed to be given as of the land proposed to be taken in exchange, and whenever the exchange shall be proposed to be made by or with any person under disability, then accompanied also by a copy of the several limitations contained in the deed or will under which such person may be entitled, shall be deposited with the clerk of the peace of the county in which the greater part of the land may be situated; and a notice of such draft and estimate having been so deposited (such notice containing a description of the land intended to be exchanged) shall be published in some newspaper usually circulated in the county wherein such land is situated at three several times in three successive months after such draft and estimate shall have been so deposited: Provided always, That whenever a corporation aggregate shall be one of the parties to such proposed exchange, or the consent of a corporation aggregate shall be necessary thereto, the affixing of the common seal of such corporation to such draft deed of exchange shall be deemed a sufficient compliance with the provisions of this act.

Draft of intended exchange to be deposited with the clerk of the peace, and notice thereof inserted in some newspaper circulating in the county.

XIII. That if any person claiming to have an interest in the land proposed to be exchanged shall object to such exchange, it shall be lawful for him to state such objection in writing, and to deposit the same with the clerk of the peace at any time not less than fourteen days before the holding of the assizes at which such proposed exchange shall be taken into consideration as herein-after mentioned; and such draft deed of exchange, and estimate, and copy of limitations, and the said statement of objection, shall be open to the inspection of any person.

Proviso as to certain corporations.

Persons having any objections to deposit them with the clerk of the peace within a certain time.

XIV. That the justices of the peace for the several counties, ridings, divisions, cities, towns, liberties, and precincts within England and

Fees to be taken by clerks of the peace.

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Wales, shall in the manner directed by an act passed in the fifty-seventh year of the reign of King George the Third, intituled *An Act to enable Justices of the Peace to settle the Fees to be taken by the Clerks of the Peace of the respective Counties and other Divisions of England and Wales*, ascertain, make, and settle a table of fees and allowances to be taken by the clerks of the peace for such counties, ridings, divisions, cities, towns, liberties, and precincts, for their trouble in the execution of the duties imposed upon them by this act, and such fees shall be subject to alteration and regulation in the manner by the said act directed.

Clerk of the peace to cause the draft deed, &c., to be laid before a judge of assize, who shall appoint a barrister to consider the same.

XV. That the clerk of the peace shall cause the said draft deed of exchange, estimate, and statement of objection (if any), and all other papers relating thereto, to be laid before the senior judge of nisi prius at the assizes to be holden next after the expiration of three months from the time of the deposit of such draft deed of exchange with the clerk of the peace as aforesaid; and such judge shall appoint a barrister, of not less than five years standing, for taking into consideration the said draft deed and statement, who shall forthwith appoint a time for that purpose.

Barrister may summon witnesses. False swearing perjury.

XVI. That such barrister shall be empowered to summon and to compel the attendance of witnesses, and to administer an oath; and that any person wilfully swearing falsely before such barrister shall be liable to all the penalties of wilful perjury.

Barrister to examine witnesses, and determine objections.

XVII. That such barrister shall satisfy himself, by the production of deeds, the examination of witnesses, or by such other evidence as he shall think fit to require, of the value of the lands proposed to be exchanged, and that the person proposing to make such exchange is not under any disability, or if he is that the person stated to have the next immediate vested estate of freehold in reversion or remainder has such estate, and that the notices and the consents required by this act have been duly given; and such barrister shall hear and determine all objections (if any) which may have been made by any person claiming to have an interest in the land proposed to be exchanged.

After inquiry the barrister to certify as the case may be.

XVIII. That after such inquiry shall have been had before such barrister he shall grant a certificate under his hand, in which he shall state that the parties proposing to make such exchange are not under any disability, or if they are, or either of them is under disability, that the persons or person having the next immediate vested estate of freehold in remainder or reversion have concurred therein, that the persons whose consents are required under this act have consented to the exchange, and that the equality and fairness of the proposed exchange have been proved, or otherwise, as the case may be; and he shall suggest in such certificate such alterations as to him may seem expedient for the better protecting the rights of parties having an interest in the lands proposed to be exchanged.

In case of an exchange in which there shall be a difference in value of not more than one-fifth.

XIX. That in any case of an exchange to be made under this act in which there shall be a difference of not more than one-fifth in the value of the lands proposed to be exchanged, it shall be lawful for the said barrister to allow or insert a provision in such exchange for the payment in money of such difference in value: Provided always, That no exchange shall be made under the authority of this act in which there shall be a difference of more than one-fifth part in the value of the lands proposed to be exchanged.

Certificate, with draft deed, &c. to be laid before the judge, who shall make order thereupon.

XX. That the said certificate, together with the said draft deed of exchange, and estimate, and such statement of objections, if any, and all other papers relating thereto, shall be laid before the said judge of assize, who shall thereupon make such order therein, either for confirming the said exchange, or for annulling the same, or for altering the same, as to him may seem expedient; and the said draft deed of exchange when so confirmed or altered by the said order shall be immediately engrossed and executed by the necessary parties, and shall, when so executed, be binding upon the owners and proprietors of the

pieces of land so exchanged, and all other parties interested therein: Provided always, That before making such final order it shall be lawful for such judge to institute or cause to be instituted such further inquiry, by the means aforesaid, into the several matters relating to any such agreement, as he may think necessary.

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Judge may institute further inquiry.

XXI. Provided also, That such barrister shall further certify to the said judge by whom and in what proportions the costs and charges of such proceedings relative to such agreement ought to be borne, and thereupon the said judge shall make such order for payment of such costs and charges as he may think right: Provided always, That in the case of any disagreement respecting the amount of such costs, such costs shall be taxed by the master or secondary of the court of king's bench.

Costs and charges of proceedings.

XXII. That every barrister before whom any inquiry shall be had under the authority of this act shall be entitled to be paid at the rate of five guineas for every day that he shall be employed in making such inquiry, over and above his travelling and all other expences; and every such barrister shall after the termination of such inquiry transmit a statement of the number of days during which he shall have been so employed, and an account of the travelling and all other expences incurred by him in respect of such employment, to the judge by whom he shall have been appointed, or, in case of the death or illness or retirement of such judge, to any other judge of the superior courts of record at Westminster, who shall examine and allow the same, or so much or such parts thereof as he shall see fit; and the same when so allowed shall be paid in the same manner as the other costs and charges incident to such exchange are herein-before directed to be paid: Provided always, That if more than one case of exchange shall be referred to the same barrister, the remuneration to such barrister shall not be cumulative, but shall be considered as fixed for the day and not for the case.

Remunerative to barrister.

XXIII. That in case any money shall be directed to be paid by either party to the other of them for equality of exchange, and the party to whom such money shall be directed to be paid shall (in case it shall exceed the sum of twenty pounds) be paid with all convenient speed into the bank of England in the name and with the privity of the accountant general of the court of chancery, to be placed to his account there *ex parte* the person entitled to the rents and profits of the land for or in respect of which such money shall be payable, to the intent that such money shall be applied, under the direction of the court, to be signified by an order made in a summary way upon a petition to be preferred by or on behalf of the person who would have been entitled to the rents and profits of the said land, either in the purchase or redemption of the land tax, or in discharging any debt or incumbrance affecting the said land, or affecting any other lands standing settled therewith to the same or the like uses, or in the purchase of other lands, which shall be conveyed to the same or the like uses, or such of them as shall be then subsisting and capable of taking effect; and in the meantime and until such purchase shall be made the said money shall, by order of the said court, upon application thereto, be invested by the said accountant general in his or me in some of the public funds, and the dividends thereof shall from time to time be paid to the person who would have been entitled to the rents of the land so to be purchased and settled; but in case such money shall not exceed the sum of twenty pounds, then the same shall be paid to the person entitled to the rents and profits of the land for or in respect of which the same may be payable, or in case of infancy, lunacy, idiocy, or coverture, to his or her guardian, committee, or husband, as the case may be.

Application of money paid for equality of exchange when party entitled to same under disability.

XXIV. That from and immediately after such deed of exchange as Lands given in herein-before is mentioned shall have been duly executed by the neces- exchange to be

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exonerated
from the uses
affecting them
at the time, and
to become sub-
ject to such uses
as affected the
lands taken.

After exchange
party not to be
evicted.

sary parties, the land which by such deed is given in exchange shall be exonerated and discharged from the uses, trusts, powers, conditions, limitations and restrictions, charges and incumbrances then affecting the same, and shall be and become subject to such and the same uses, trusts, powers, conditions, limitations and restrictions, charges and incumbrances, as affected the land taken in exchange at the same date; and the land so taken in exchange shall be exonerated and discharged from all uses, trusts, powers, conditions, limitations and restrictions, charges and incumbrances then affecting the same, and shall be and become subject to such and the same uses, trusts, powers, conditions, limitations and restrictions, charges and incumbrances as affected the lands given in exchange at the same time.

XXV. That no person to whom any land shall have been granted or conveyed in exchange according to the provisions of this act shall at any time thereafter be evicted from the peaceable and quiet possession of such land by reason or in consequence of any person claiming right thereto through any title prior to that of, or through any defect of title in, the person by whom such land may have been granted or conveyed; but nevertheless it shall be lawful for the person claiming such right, and he is hereby authorized and empowered, to use, exercise, and enjoy all such and the same powers and remedies in trying his right to and in obtaining and recovering possession of the land which shall have been granted or conveyed in exchange as the person so claiming would in case this act had not been made have been enabled to use, exercise, or enjoy in trying the right to and recovering the possession of the land in exchange for which the same shall have been so granted or conveyed under the authority of this act.

General saving.

XXVI. Saving always to the king's most excellent Majesty, his heirs and successors, and to all and every other person, bodies politic, corporate, and collegiate, his and their heirs, successors, executors, and administrators, (other than and except the several owners and proprietors of the said exchanged lands, and the several persons and parties who shall have consented to such exchange, and all other persons claiming under them, or under the same will or deed or other conveyance as the said owners and proprietors, any right, title, estate, or interest to or in the said exchanged lands,) all such estate, right, title, interest, claim, and demand whatsoever as they, every or any of them had before the making and confirming of any such exchange, or could or might have had or enjoyed in case such exchange had not been made.

Meaning of
words in the
act.

XXVII. That the words and expressions herein-after mentioned, which in their ordinary signification have a more confined or a different meaning, shall in the construction of this act, except where the nature of the provision or the context of the act shall exclude such construction, be interpreted as follows; that is to say, the word "person" shall extend as well to an individual as to a body politic, corporate, or collegiate, and to a corporation as well aggregate as sole, whether such corporation be eleemosynary or civil, ecclesiastical or lay; the word "benefice" shall extend to and be taken to comprehend rectories, vicarages, donatives, perpetual curacies, parochial and consolidated chapelries, district parishes and district chapelries, and churches and chapels having a district assigned thereto; the word "land" shall extend to every species of land, whether arable, meadow, or pasture, and whether freehold, copyhold, or customary, or held by any other tenure, and as well to one piece or parcel as to any number of pieces or parcels of land; and every word importing the singular number only shall extend and be applied to several persons or things as well as one person or thing; and every word importing the masculine gender only shall extend and be applied to a female as well as a male.

To extend to
England and
Wales.

XXVIII. That this act shall extend only to that part of the united kingdom called England and Wales.

The SCHEDULE to which the foregoing ACT refers.

This indenture, made the _____ day of _____
in the year _____ between *A. B.* of _____
of the one part, and *C. D.* of _____ of the other
part, witnesseth, that in pursuance and under the authority of an act
passed in the _____ year of the reign of his Majesty king
William the Fourth, intituled [*here set forth the title of this act*], the
said *A. B.* doth grant and convey all the land comprised in the first
schedule hereunder written, marked with the letter *A.*, unto the said
C. D., in lieu of and in exchange for the land comprised in the second
schedule hereunder written, marked with the letter *B.*, to the end and
intent that the land comprised in the first schedule may be held and
enjoyed by the said *C. D.* and the person or persons who for the time
being shall be entitled thereto, and be and become subject to such and
the same uses, trusts, powers, conditions, limitations, restrictions,
charges, and incumbrances as the land comprised in the second
schedule now is or may be subject or liable to: And this indenture
further witnesseth, that in pursuance of the said act the said *C. D.* doth
grant and convey all the land comprised in the second schedule here-
under written, marked with the letter *B.*, unto the said *A. B.*, in lieu of
and in exchange for the land comprised in the first schedule hereunder
written, marked with the letter *A.*, to the end and intent that the land
comprised in the second schedule may be held and enjoyed by the said
A. B. and the person or persons who for the time being shall be
entitled thereto, and be and become subject to such and the same uses,
trusts, powers, conditions, limitations, restrictions, charges, and incum-
brances as the land comprised in the first schedule now is or may be
subject or liable to. In witness, &c.

Schedule *A.* containing the land conveyed by *A. B.* to *C. D.*

Schedule *B.* containing the land conveyed by *C. D.* to *A. B.*

Witness

E. F.

G. H.

A. B. (L.s.)

C. D. (L.s.)

PART II.

CLASS II.

TITHES.

[No. I.] 2 & 3 W. IV. c. 41.—An Act to facilitate the Recovery of Tithes in certain cases in Ireland, and for Relief of the Clergy of the Established Church. [1st June 1832.]

[No. II.] 2 and 3 W. 4, c. 100.—An Act for shortening the Time required in Claims of Modus Decimandi, or Exemption from or Discharge of Tithes. [9th August 1832.]

What prescriptions and claims of modus decimandi to be valid in law.

WHEREAS the expence and inconvenience of suits instituted for the recovery of tithes may and ought to be prevented, by shortening the time required for the valid establishment of claims of a *modus decimandi*, or exemption from or discharge of tithes; be it therefore enacted, &c., That all prescriptions and claims of or for any *modus decimandi*, or of or to any exemption from or discharge of tithes, by composition real or otherwise, shall, in cases where the render of tithes in kind shall be hereafter demanded by our said lord the king, his heirs or successors, or by any duke of Cornwall, or by any lay person, not being a corporation sole, or by any body corporate of many, whether temporal or spiritual, be sustained and be deemed good and valid in law, upon evidence showing, in cases of claim of a *modus decimandi* the payment or render of such modus, and in cases of claim to exemption or discharge showing the enjoyment of the land, without payment or render of tithes, money, or other matter in lieu thereof, for the full period of thirty years next before the time of such demand, unless, in the case of claim of a *modus decimandi*, the actual payment or render of tithes in kind, or of money or other thing differing in amount, quality, or quantity from the modus claimed, or in case of claim to exemption or discharge, the render or payment of tithes, or of money or other matter in lieu thereof, shall be shown to have taken place at some time prior to such thirty years, or it shall be proved that such payment or render of modus was made or enjoyment had by some consent or agreement expressly made or given for that purpose by deed or writing; and if such proof in support of the claim shall be extended to the full period of sixty years next before the time of such demand, in such cases the claim shall be deemed absolute and indefeasible, unless it shall be proved that such payment or render of modus was made or enjoyment had by some consent or agreement expressly made or given for that purpose by deed or writing; and where the render of tithes in kind shall be demanded by any archbishop, bishop, dean, prebendary, parson, vicar, master of hospital, or other corporation sole, whether spiritual or temporal, then every such prescription or claim shall be valid and indefeasible, upon evidence showing such payment or render of modus made or enjoyment had, as is herein-before mentioned, applicable to the nature of the claim, for and during the whole time that two persons in succession shall have held the office or benefice in respect whereof such render of tithes in kind shall be claimed, and for not less than three years after the appointment and institution or induction of a third person thereto: Provided always, That if the whole time of the holding of such two persons shall be less than sixty years, then it shall be necessary to show such payment or render of modus made or enjoyment had (as the case may be), not only during the whole of such time, but also during such further number of years, either before or after

Proviso.

such time, or partly before and partly after, as shall with such time be sufficient to make up the full period of sixty years, and also for and during the further period of three years after the appointment and institution or induction of a third person to the same office or benefice, unless it shall be proved that such payment or render of modus was made or enjoyment had by some consent or agreement expressly made or given for that purpose by deed or writing.

II. That every composition for tithes which hath been made or confirmed by the decree of any court of equity in England in a suit to which the ordinary, patron, and incumbent were parties, and which hath not since been set aside, abandoned, or departed from, shall be and the same is hereby confirmed and made valid in law; and that no modus, exemption, or discharge shall be deemed to be within the provisions of this act, unless such modus, exemption, or discharge shall be proved to have existed and been acted upon at the time of or within one year next before the passing of this act.

No. I.
2 & 3 W. 4,
c. 100.

What compositions for tithes shall be considered valid.

III. Provided always, That this act shall not be prejudicial or available to or for any plaintiff or defendant in any suit or action relative to any of the matters before mentioned, now commenced, or which may be hereafter commenced, during the present session of parliament, or within one year from the end thereof.

The act not available in any suit now commenced, &c.

IV. Provided also, That this act shall not extend or be applicable to any case where the tithes of any lands, tenements, or hereditaments shall have been demised by deed for any term of life or number of years, or where any composition for tithes shall have been made by deed or writing, by the person or body corporate entitled to such tithes, with the owner or occupier of the land, for any such term or number of years, and such demise or composition shall be subsisting at the time of the passing of this act, and where any action or suit shall be instituted for the recovery or enforcing the payment of tithes in kind within three years next after the expiration, surrender, or other determination of such demise or composition.

To what cases this act shall not extend.

V. Provided also, That where any lands or tenements shall have been or shall be held or occupied by any rector, vicar, or other person entitled to the tithes thereof, or by any lessee of any such rector, vicar, or other person, or by any person compounding for tithes with any such rector, vicar, or other person, or by any tenant of any such rector, vicar, or other person, or of any such lessee or compounder, whereby the right to the tithes of such lands or tenements may have been or may be during any time in the occupier thereof, or in the person entitled to the rent thereof, the whole of every such time and times shall be excluded in the computation of the several periods of time herein-before mentioned.

Time during which lands shall be held by persons entitled to the tithes thereof to be excluded in the computation under this act;

VI. Provided also, That the time during which any person otherwise capable of resisting any claim to any of the matters before mentioned shall have been or shall be an infant, idiot, non compos mentis, feme covert, or lay tenant for life, or during which any action or suit shall have been pending, and which shall have been diligently prosecuted, until abated by the death of any party or parties thereto, shall be excluded in the computation of the periods herein-before mentioned, except only in cases where the right or claim is hereby declared to be absolute and indefeasible.

Time during which any person capable of resisting any claim shall be an infant, &c.

VII. That in all actions and suits to be commenced after this act shall take effect it shall be sufficient to allege that the modus or exemption or discharge claimed was actually exercised and enjoyed for such of the periods mentioned in this act as may be applicable to the case; and if the other party shall intend to rely on any proviso, exception, incapacity, disability, contract, agreement, deed, or writing herein mentioned, or any other matter of fact or of law not inconsistent with the simple fact of the exercise and enjoyment of the matter claimed, the same shall be specially alleged and set forth in answer to the allegation of the party claiming, and shall not be received in evidence on any general traverse or denial of the matter claimed.

What it shall be sufficient to allege in actions commenced under this act.

No. II. VIII, That in the several cases mentioned in and provided for by this
 2 & 3 W. 4, act no presumption shall be allowed or made in favour or support of any
 c. 100. claim upon proof of the exercise or enjoyment of the right or matter
 claimed for any less period of time or number of years than for such
 period or number mentioned in this act as may be applicable to the
 case and to the nature of the claim.
 No presumption allowed in case and to the nature of the claim.
 support of any claim for any less period than mentioned in this act.
 Act to extend to IX. Provided also, That this act shall not extend to Scotland or
 England only. Ireland.

[No. III.] 2 & 3 W. IV. c. 119.—An Act to amend three Acts passed respectively in the Fourth, Fifth, and in the Seventh and Eighth Years of the reign of his late Majesty King George the Fourth, providing for the establishing of Compositions of Tithes in Ireland, and to make such Compositions permanent. [16th August 1832.]

[No. IV.] 3 & 4 W. IV. c. 100.—An Act for the relief of the Owners of Tithes in Ireland, and for the amendment of an Act passed in the last Session of Parliament, intituled *An Act to amend three Acts passed respectively in the Fourth, Fifth, and in the Seventh and Eighth years of the reign of his late Majesty King George the Fourth, providing for the establishing of Compositions for Tithes in Ireland, and to make such Compositions permanent.*

[No. V.] 4 & 5 W. IV. c. 83.—An Act to amend an Act passed in the Third Year of His present Majesty, intituled *An Act for shortening the Time required in Claims of Modus Decimandi, or exemption from or Discharge of Tithes.* [15th August 1834.]

2 & 3 W. 4,
c. 100.

WHEREAS by an act passed in the third year of the reign of his present Majesty, intituled *An Act for shortening the Time required in Claims of Modus Decimandi, or Exemption from or Discharge of Tithes*, certain provisions were made limiting the period within which in cases of claims of a *modus decimandi* the payment or render of such modus, and in cases of claim of or to any exemption from or discharge of tithes by composition real or otherwise, the enjoyment of the land without payment or render of tithes or money, or other matter in lieu thereof, should be shown to have taken place: And whereas it was by the said act further enacted, That nothing therein contained should be prejudicial or available to or for any plaintiff or defendant in any suit or action relative to any of the matters therein mentioned, then commenced, or which might be thereafter commenced during the then session of parliament, or within one year from the end thereof: And whereas since the passing of the said act a great number of suits have been instituted for the recovery of tithes, under the apprehension on the part of the plaintiffs that they would be precluded by the said act from recovering the tithes to which they claim to be entitled unless they prosecuted their claims within the periods limited by the said act: And whereas

it is deemed advisable to enable the defendants in such suits to cause all further proceedings therein to be suspended until the end of the next session of parliament, upon the terms herein-after expressed: Be it therefore enacted, &c., That from and after the passing of this act it shall and may be lawful for the defendant or defendants in any action or suit which may have been commenced or instituted since the passing of the said recited act for the recovery of tithes, or for invalidating claims of a *modus decimandi*, or an exemption from or discharge of tithes, for lands in respect whereof no tithes, nor any composition in lieu thereof, shall have been actually rendered or paid within the space of sixty years previous to the passing of this act, with the consent of the plaintiff or plaintiffs in such action or suit, to pay the amount of the costs and expences (to be taxed as between party and party) which may have been incurred by or on the part of the plaintiff or plaintiffs in such action or suit into the Bank of England, in the name and with the privy of the accountant general of the court of chancery or of the court of exchequer, or of the proper officer of the court in which such action or suit shall have been brought, to the credit or on account of such action or suit; and in every case where such costs and expences shall be so paid into court, all further proceedings in such action or suit (except as herein-after provided) shall be stayed and suspended until the end of the next session of parliament.

No. V.
4 & 5 W. 4,
c. 83.

Proceedings stayed on defendant's paying costs into court.

II. That from and after the end of the next session of parliament it shall and may be lawful for the plaintiff or plaintiffs in any action or suit, in which the defendant or defendants shall have caused the proceedings to be stayed or suspended under the provision herein-before contained to give notice to the defendant or defendants of his, her, or their intention to proceed in such action or suit and to proceed there-with accordingly; and then and in every such case the defendant or defendants shall, immediately after such notice shall have been so given, be entitled to receive out of court the sum or sums which such defendant or defendants shall have previously paid into court on account of the costs of the plaintiff or plaintiffs.

Plaintiff may give notice to defendant of his intention to proceed; in which case the defendant may have his costs out of court.

III. Provided always, That it shall and may be lawful for the plaintiff or plaintiffs in any action or suit in which the defendant or defendants shall have paid into court the costs of such plaintiff or plaintiffs under the provision herein-before contained, to take the sum or sums which may have been so paid for such costs out of court, for his, her, or their own use, and then and in every such case all further proceedings in such action or suit shall be for ever abandoned and relinquished.

If plaintiff accepts the costs, all proceedings to be abandoned.

IV. That it shall and may be lawful for the successors, heirs, executors, administrators, or assigns of any plaintiff or plaintiffs, whose action or suit may be so stayed or suspended as aforesaid, to revive and proceed with such action or suit after the end of the next session of parliament, or to take such costs as aforesaid out of court, and cause all further proceedings to be abandoned and relinquished, in the same manner in every respect as the original plaintiff or plaintiffs might or could have done.

Executors, heirs, &c., may act in case of death.

V. Provided always, That notwithstanding the provision herein-before contained it shall and may be lawful for any party to any action or suit so suspended, upon adducing sufficient proof to the satisfaction of a judge of the court in which such action or suit shall have been commenced that there is danger of some material evidence in support of the right or claim of such party being lost in consequence of such suspension, to proceed in such action or suit to the extent of proving such fact or facts the evidence respecting which shall be so shown as aforesaid to be in danger of being lost through such suspense.

Judges may, upon sufficient cause shown, permit actions to be proceeded with.

VI. Provided always, That nothing in this act contained shall prevent the prosecution of any suit in law or equity for the recovery of any tithes claimed or demanded previous to the passing of the said recited act, or for the recovery of the value thereof.

As to previous claims.

[No. VI.] • 5 & 6 W. IV. c. 74.—An Act for the more easy Recovery of Tithes. [9th September 1835.]

7 & 8 W. 3,
c. 6.

53 G. 3, c. 127.

Proceedings
for the recovery
of tithes under
10l. (except in
the case of
quakers) shall
be had only
under the
powers of the
two first recited
acts.

Proviso.

WHEREAS an act was passed in the seventh and eighth years of the reign of king William the third, intituled *An Act for the more easy Recovery of Small Tithes*, whereby it was amongst other things enacted, that two or more of his Majesty's justices of the peace were authorized and required to hear and determine complaints touching small tithes, oblations, and compositions substracted or withheld, not exceeding forty shillings: and whereas an act was passed in the fifty-third year of the reign of his late Majesty king George the Third, intituled *An Act for the better Regulation of Ecclesiastical Courts in England, and for the more easy Recovery of Church Rates and Tithes*, whereby the jurisdiction of the said justices was extended to all tithes, oblations, and compositions substracted or withheld, where the same should not exceed ten pounds in amount from any one person: and whereas by an act of the seventh and eighth years of the reign of king William the third, chapter thirty-four, provision is made for the recovery of great and small tithes (not exceeding the amount of ten pounds) due from quakers, by distress and sale, under the warrant of two justices: and whereas by an act of the first year of the reign of king George the First, chapter six, the provisions of the said last-mentioned act were extended, in the case of quakers, to all tithes or rates, and customary rights, dues, and payments belonging to any church or chapel: and whereas by the said recited act of the fifty-third year of the reign of king George the third the aforesaid provisions in relation to quakers were amended, and were also made applicable to any amount not exceeding fifty pounds: and whereas by an act of the parliament of Ireland of the seventh year of the reign of king George the Third, chapter twenty-one, amended and extended by an act of the parliament of the United Kingdom of the fifty-fourth year of the reign of king George the Third, chapter sixty-eight, similar provisions are in force in Ireland for the recovery, from quakers, of great and small tithes, and customary and other rights, dues, and payments belonging to any church or chapel, not exceeding the amount of fifty pounds: and whereas it is highly expedient, and would further tend to prevent litigation, if, in the cases and with the exceptions herein-after mentioned, all claimants were restricted to the respective remedies provided by the said recited acts: be it therefore enacted, &c. that from and after the passing of this act no suit or other proceeding shall be had or instituted in any of his Majesty's courts in England now having cognizance of such matter for or in respect of any tithes, oblations, or compositions withheld, of or under the yearly value of ten pounds (save and except in the cases provided for in the two first-recited acts), but that all complaints touching the same shall, except in the case of quakers, be heard and determined only under the powers and provisions contained in the said two first-recited acts of parliament in such and the same manner as if the same were herein set forth and re-enacted; and that no suit or other proceeding shall be had or instituted in any of his Majesty's courts either in England or Ireland now having cognizance of such matter, for or in respect of any great or small tithes, moduses, compositions, rates, or other ecclesiastical dues or demands whatsoever, of or under the value of fifty pounds, withheld by any quaker either in England or Ireland; but that all complaints touching the same, if in England, shall be heard and determined only under the powers and provisions contained in the said recited acts of the seventh and eighth years of king William the third, chapter thirty-four, and the fifty-third year of king George the third; and if in Ireland under the said recited act of the parliament of Ireland, of the seventh year of king George the Third, and the said recited act of the fifty-fourth year of king George the third, in the same manner as if the same were herein set forth and re-enacted: Provided always, that nothing herein-before contained shall extend to any

case in which the actual title to any tithe, oblation, composition, modus, due, or demand, or the rate of such composition or modus, or the actual liability or exemption of the property to or from any such tithe, oblation, composition, modus, due, or demand shall be *bond fide* in question, nor to any case in which any suit or other proceeding shall have been actually instituted before the passing of this act.

No. VI.
5 & 6 W. 4,
c. 74.

II. That in case any suit or other proceeding has been prosecuted or commenced, or shall hereafter be prosecuted or commenced in any of his Majesty's courts in England or Ireland, for recovering any great or small tithes, modus or composition for tithes rate, or other ecclesiastical demand, subtracted, unpaid, or withheld by or due from any quaker, no execution or decree or order shall issue or be made against the person or persons of the defendant or defendants, but the plaintiff or plaintiffs shall and may have his execution or decree against the goods or other property of the defendant or defendants; and in case any person now is detained in custody in England or Ireland under any execution or decree in such suit or proceeding, the sheriff or other officer having such person in his custody shall forthwith discharge him therefrom; and the plaintiff or plaintiffs in such suit or proceeding shall and may, notwithstanding such discharge, issue any other execution or take any other proceeding for recovering his demand and his costs out of the property, real or personal, of the person so discharged.

Manner of recovering tithes due from quakers.

[No. VII.] 5 & 6 W. IV. c. 75.—An Act for the Amendment of the Law as to the Tithing of Turnips in certain Cases. [9th September 1835.]

WHEREAS it is frequently convenient and necessary, in the agistment of turnips by sheep or cattle, to sever the turnips from the ground, in order that they may be the more easily and completely consumed, and thereby to prevent waste, and it is not reasonable that such severance should vary or affect the payment of tithe: Be it therefore enacted, &c., That from and after the passing of this act, in all cases where turnips shall be severed in the manner and for the purpose aforesaid, and shall be eaten on the ground by sheep or cattle, and not otherwise removed, the same shall be subject to the payment of tithe in the same manner and to the same extent as if they had been eaten by such sheep or cattle without having been so severed as aforesaid, and no farther or otherwise.

Turnips severed from the land, if consumed on the same, subject to tithe as if not so severed.

[No. VIII.] 5 & 6 W. IV. c. 79.—An Act to suspend until after the sixth day of April, one thousand eight hundred and thirty-six, proceedings for recovering Payment of certain Instalments of the Money advanced under the Acts for establishing Tithe Compositions in Ireland. [9th September 1835.]

PART II.

CLASS III.

APPROVEMENT AND INCLOSURE OF COMMONS.

[No. I.] 1 & 2 W. IV, c. 42.—An act to amend an Act of the Fifty-ninth Year of His Majesty King George the Third, for the Relief and Employment of the Poor.

[15th October 1831.]

59 G. 3, c. 12.

Churchwardens, &c. may provide land to a certain extent for employment of the poor.

Churchwardens, &c. may inclose part of waste lands for cultivation, with consent.

Power to hire land, &c. extended to guardians, &c.

22 G. 3, c. 83.

Provisions of recited act extended to lands hired, &c. under this act.

No settlement to be gained by lands hired.

WHEREAS by an act passed in the fifty-ninth year of the reign of his late Majesty King George the Third, intituled *An Act to amend the Laws for the Relief of the Poor*, certain power is given to churchwardens and overseers of the poor to provide land for the employment of the poor to an extent not exceeding twenty acres: And whereas such limitation to twenty acres has been found inconvenient in many parishes: Be it therefore enacted, &c., That it shall and may be lawful for the churchwardens and overseers of the poor of any parish to hire and take on lease, for the employment of the poor of such parish, any suitable portion or portions of land within or near to such parish, to an extent not exceeding fifty acres.

II. That, in order to extend the salutary and benevolent purposes of this act, it shall and may be lawful for the churchwardens and overseers of the poor of any parish to inclose from any waste or common land or ground lying in or near to such parish, with the consent in writing of the lord of the manor and the major part in value of the persons having right of common thereupon, signified under their hands and seals, any part or portion of such waste or common land not exceeding fifty acres, and to cultivate and improve the same for the use and benefit of such parish and the poor persons within the same, or to let any part or parts of the same to any poor and industrious inhabitant or inhabitants of such parish, to be by him or them occupied and cultivated on his or their own account.

III. That the powers and authorities hereby given to churchwardens and overseers of the poor shall extend to and may be exercised by the guardians of the poor of any parishes or places which are or may be incorporated or united under and by virtue of an act made and passed in the twenty-second year of the reign of his late Majesty King George the Third, intituled *An Act for the better Relief and Employment of the Poor*, or under or by virtue of any local act or acts, and by the overseers of all townships, villages, and places having separate overseers, and maintaining their poor separately.

IV. That the clauses, powers, and authorities, regulations, provisions, and directions, in and by the said recited act given, contained, and made with respect to the providing of land for the employment of the poor, or to the cultivation, management, or disposition thereof, or to the poor persons employed thereon or renting any portion thereof, shall, so far as the same are applicable, be deemed and taken to extend to any land which shall be provided under this act, and to the poor persons employed thereon or renting any portion thereof respectively.

V. Provided always, That no poor inhabitant of any parish or place, to whom any land shall be let which shall or may have been or shall be hired or taken or inclosed under or by virtue of the said recited act or this act, shall gain a settlement by reason of his renting and occupying or paying parochial taxes for such land, either alone or with any other land or tenement.

[No. II.] 1 & 2 W. IV. c. 59.—An Act to enable Churchwardens and Overseers to inclose Land belonging to the Crown, for the Benefit of poor Persons residing in the parish in which such Crown Land is situated.

[20th October 1831.]

WHEREAS by an act passed in the fifty-ninth year of the reign of his late Majesty King George the Third, intituled *An Act to amend the Laws for the Relief of the Poor*, power is given to churchwardens and overseers of the poor to provide land for the employment of the poor : and whereas it is expedient to extend such power, so as to enable churchwardens and overseers of the poor to acquire for such purposes portions of forest or waste lands belonging to the crown : be it therefore enacted, &c., That it shall and may be lawful for the churchwardens and overseers of the poor of any parish to inclose from any forest or waste lands belonging to the crown lying in or near to such parish, with the consent in writing of the lord high treasurer or the commissioners of his Majesty's treasury of the United Kingdom of Great Britain and Ireland for the time being, to be signified by some warrant under his or their hand or hands, any part or portion of such forest or waste lands not exceeding fifty acres, for the purpose of cultivating and improving the same for the use and benefit of such parish and the poor persons within the same.

59 G. 3, c. 12.

Churchwardens, with consent of treasury, may inclose crown lands not exceeding fifty acres.

II. Provided always, That no poor inhabitant of any parish or place to whom any land shall be let which shall or may have been or shall be hired or taken or inclosed under or by virtue of the said recited act or this act, shall gain a settlement by reason of his renting and occupying or paying parochial taxes for such lands, either alone or with any other land or tenement.

Persons renting such land not to gain a settlement.

[No. III.] 2 W. IV. c. 42.—An Act to authorize (in Parishes inclosed under any Act of Parliament) the letting of the Poor Allotments in small portions to industrious Cottagers.

[1st June 1832.]

WHEREAS in parishes inclosed under acts of parliament there are in many cases allotments made for the benefit of the poor, chiefly with a view to fuel, which are now comparatively useless and unproductive : and whereas it would tend much to the welfare and happiness of the poor if those allotments could be let at a fair rent, and in small portions, to industrious cottagers of good character, while the distribution of fuel might be augmented by appropriating the said rents to the purchase of an additional quantity ; be it therefore enacted, &c., That it shall and may be lawful for the trustees of the said allotments, together with the churchwardens and overseers of the poor, in parish vestry assembled, and they are hereby required, to let portions of any such allotment, not less than one fourth of a statute acre, and not exceeding one such acre, to any one individual, according to their discretion, as a yearly occupation from Michaelmas to Michaelmas, (and at such rent as land of the same quality is usually let for in the said parish,) to such industrious cottagers of good character, being day labourers or journeymen legally settled in the said parish, and dwelling within or near its bounds, as shall apply for the same in the manner herein-after mentioned.

Trustees and parish officers in vestry assembled may let portions of poor allotments to industrious cottagers.

II. Provided also, That the person hiring the same shall be held bound to cultivate it in such a manner as shall preserve the land in a due state of fertility.

Land to be duly cultivated.

III. That for the purpose of carrying this act into effect a vestry shall be held in the first week in September in every year, of which ten days'

Vestry to be held annually to receive applications.

No. III.
2 W. 4, c. 42.

Order of vestry
to authorize oc-
cupation.

Payment of
rent.

If rent is in
arrear, or land
not duly culti-
vated, tenant
may be evicted.

Power to re-
cover posses-
sion of land il-
legally held
over, by sum-
mary process.

Arrears of rent
how to be re-
covered.

Application of
rent.

notice shall be given in the usual manner, at which vestry the trustees of the said allotments may attend and vote, if they shall so think fit, and at which vestry, or some adjournment thereof, any industrious cottager of good character who may desire to rent such portion of land as aforesaid may apply for the same; and the said vestry are hereby required, taking into consideration the character and circumstances of the applicant, to determine the case, either by rejecting his application, or by making an order that he shall be permitted to occupy such portion of the poor allotment, being not less than one fourth of a statute acre nor exceeding one such acre, as the said vestry in their discretion shall determine, and upon the terms herein-before enacted; and the said order of vestry shall be held to all intents and purposes to be a sufficient title and authority to such applicant to enter into the occupation of such land at the time therein appointed.

IV. Provided always, That the rent shall be reserved and payable to the churchwardens and overseers of the poor, on behalf of the vestry, in one gross sum for the whole year, and shall be paid to one or either of them at the end of the year's occupation.

V. That if the rent of such portion of land shall at any time be four weeks in arrear, or if at the end of any one year of occupation it shall be the opinion of the vestry that the land has not been duly cultivated, so as to fulfil the useful and benevolent purposes of this act, then and in such case the churchwardens and overseers of the poor, or any or either of them, with the consent of the vestry, may serve a notice to quit upon the occupier of such portion of land; whereupon the said occupier shall deliver up possession of the same to the churchwardens and overseers aforesaid, or any or either of them, within one week after the said notice has been duly served upon him.

VI. That if any person to whom such portion of land as aforesaid shall have been let, for his or her own occupation, shall refuse to quit and to deliver up possession thereof when thereto required according to the terms of this act, or if any other person or persons shall unlawfully enter upon or take or hold possession of any such land, it shall be lawful for the churchwardens and overseers of the poor, or any or either of them, to exhibit a complaint against the person so in possession of such land before two of his Majesty's justices of the peace, who are hereby authorized and required to issue a summons, under their hands and seals, to the person against whom such complaint shall be made, to appear before them at a time and place appointed therein; and such justices are hereby required and empowered, upon the appearance of the defendant before them, or upon proof on oath that such summons has been duly served upon him, or left at his usual place of residence, or if there should have been any difficulty in finding such usual place of residence, then upon proof on oath of such difficulty, and that such summons has been affixed on the door of the parish church of the said parish in which such land is situated, and in any extra-parochial place on some public building or other conspicuous place therein, to proceed to hear and determine the matter of such complaint, and if they shall find and adjudge the same to be true, then by warrant under their hands and seals to cause possession of the land in question to be delivered to the churchwardens and overseers of the poor, or to some of them.

VII. That all arrears of rent for the said portions of land shall be recoverable by the churchwardens and overseers of the poor, or any of them, on behalf of the vestry, by application to two of his Majesty's justices of the peace in petty sessions assembled, who shall thereupon summon the party complained against, and after hearing what he has to allege, should they find any rent to be due, they are required to issue a warrant under their hands and seals to levy the same upon the goods and chattels of the person from whom the said rent shall be due and owing.

VIII. That the rent of the said portions of land shall be applied by the vestry in the purchase of fuel, to be distributed in the winter season

among the poor parishioners legally settled and resident in or near the said parish.

No. III.
2 W. 4, c. 42.

IX. That if any of the said allotments shall be found to lie at an inconvenient distance from the residences of the cottagers, it shall be lawful for the vestry, by an order made to that effect, to let such allotment, or any part thereof, for the best rent that can be procured for the same, and to hire in lieu thereof, for the purposes of this act, land of equal value, more favourably situated.

Power to exchange, for greater convenience of cottagers.

X. That no habitations shall be erected on the portions of land demised under this act, either at the expence of the parish or by the individuals renting the same.

No habitations to be erected.

XI. And whereas by two acts of the first and second years of the reign of his present Majesty, intituled *An Act to amend an Act of the Fiftieth Year of His Majesty King George the Third, for the Relief and Employment of the Poor*, and the other intituled *An Act to enable the Churchwardens and Overseers to inclose Lands belonging to the Crown, for the Benefit of poor Persons residing in the Parish in which such Crown land is situated*, power is given under certain restrictions, to inclose any quantity not exceeding fifty acres of waste land and crown land respectively, for the use and benefit of the poor; be it further enacted, That in any parish where such inclosure shall exist or shall hereafter take place, or where land shall in any other manner be found appropriated for the general benefit of the poor of any parish, then and in such cases the powers and provisions of this act shall be held to apply, in so far as the same may be found applicable.

Extending powers and provisions of this act to 1 & 2 W. 4, c. 42 and c. 59.

[No. IV.] 3 & 4 W. IV. c. 35.—An Act to remedy certain Defects as to the Recovery of Rates and Assessments made by Commissioners and other Persons under divers Inclosure and Drainage Acts after the Execution of the final Awards of the said Commissioners. [24th July 1833.]

WHEREAS divers acts of parliament have from time to time been passed for the inclosure, drainage, and improvement of divers lands, commons, and waste grounds, wherein commissioners are empowered to set out and make private roads and drains, banks, bridges, sluices, and other works: and whereas it hath been discovered, since the passing of the said acts, that there are no powers therein for the recovery of the rates or assessments from time to time after the making of the respective final awards of the commissioners acting in execution of the said acts, under or by virtue of the said acts or the said awards, or under or by virtue of powers, authorities, or directions given or contained in the said acts or awards, for defraying the expences of repairing, superintending, or renewing the said roads, drains, banks, bridges, sluices, and other works, whereby great inconvenience and losses have been sustained for want of such powers: and whereas it is expedient that a summary mode of proceeding should be granted for the purpose of recovering and enforcing the payment of such rates or assessments; for remedy whereof, may it please your Majesty that it may be enacted; and be it enacted, &c. That in all cases where no such remedy shall have been given, and where any such rate or assessment, rates or assessments, already made or hereafter to be made, or any part thereof, and whether made at one time or at several times, shall have been or shall be in arrear and unpaid for the space of twenty-one days after a notice in writing requiring payment thereof shall have been personally served on or left at the place of abode of the person or persons, or one of the persons, by whom the said rate or assessment, rates or assessments, ought to be paid, or at the place of abode of the tenant or occupier of the lands or grounds in respect of which the said rate or assessment, rates or assessments, is or are made, it shall and may be lawful for any

Mode of proceeding for recovery of rates or assessments in arrear where no remedy hath been already given.

No. IV.
3 & 4 W. 4,
c. 35.

two or more of his Majesty's justices of the peace acting for any county, riding, or division, in petty sessions assembled, (not interested in the matter in question,) and who are hereby required, upon complaint made to them by the person or persons, or any one of the persons, to whom for the time being the said rate or assessment, or rates or assessments ought to be paid, or by the person or persons, or any one of the persons, who for the time being shall be duly appointed to make or collect such rate or assessment or rates or assessments, to summon the person or persons from whom any rate or assessment, rates or assessments, shall be due, and the witnesses on both sides, and upon the appearance or contempt of the party or parties accused, or any of them, to examine such party or parties and witness or witnesses as may be then present, upon oath (which oath such justices are hereby authorized and empowered to administer), and to give judgment accordingly upon the matters and things brought before them, and by warrant or warrants under the hands and seals of such justices to levy the amount of all and every such rate or assessment, rates or assessments, so in arrear and unpaid, by distress and sale of the goods and chattels of the person or persons so making default in payment of such rate or assessment, rates or assessments, wheresoever the same can or may be found, or of the occupier or occupiers of any lands or grounds belonging to such person or persons in respect of which such rate or assessment, rates or assessments, is or are made, which may be found on such lands or grounds, together with the reasonable costs and charges of such proceeding, rendering the overplus arising by such sale (if any), after deducting the sum or sums to be levied by such distress and sale, and the charges of taking, keeping, appraising, and selling the said distress, to the owner thereof (on demand); and the respective tenants of all the lands on which such distress shall be taken are hereby authorized and required to pay any sum of money for which such distress shall be made, and to deduct the same out of his, her, or their rent; and every tenant making such payment shall be acquitted, exonerated, and discharged for so much money as shall be by him or her so paid: Provided always, that no such levy by distress and sale shall be made in respect of any such rate or assessment when more than six years shall have elapsed from the time when such rate or assessment first became due, unless a promise in writing to pay the said rate or assessment shall have been given by the person or persons liable to the payment thereof to some person duly authorized to receive the same; and when such promise has been given no such levy by distress or sale shall take place when more than six years shall have elapsed from the time that such promise was given: Provided also, that no such levy by distress and sale shall in any case exceed the amount of the rent due.

Limiting the recovery to six years from period of rate becoming due.

Form of warrant of distress. II. That the justices by whom any such warrant of distress shall be issued may cause such warrant to be drawn up in the following form of words, or in any other form to the same effect; (that is to say)

'To the Constable of the _____ in the County
'of _____

'to wit, } WHEREAS in and by a certain rate or assessment,
'dated the _____ and made for
'[here in substance describe the purposes of the rate] A. B. of
'in the parish of _____ in the county of _____ was duly
'rated and assessed in the sum of _____ [if more than one rate or as-
'sessment, recite the others in the same manner]: and whereas it ap-
'peareth unto us, two (or more) of his Majesty's justices of the peace
'for the said (county, riding, or division, (as the case may be) upon the
'complaint of C. D. of _____ the person to whom the said rate or
'assessment ought to be paid, (or otherwise as the case may be,) that a
'notice in writing, requiring payment of the said sum (or said several
'sums), was personally served on the said A. B., (or left at the place of

' abode of the said *A. B.*, or of the tenant or occupier of the lands or grounds,) to wit, on the day of last, and that default has been made in payment thereof for the space of twenty-one days next after such notice so served (or left), and that the same sum (or several sums, or a certain part of such sum or sums, as the case may be,) is (or are) still due and unpaid: and whereas it having been duly proved to us, upon oath, that the said *A. B.* hath been duly summoned to appear before us, the said justices, to show cause why the said rate or assessment (rates or assessments) should not be paid; and he the said *A. B.* having appeared before us (or and he the said *A. B.* having neglected to appear accordingly before us, as the case may be,) according to such summons, and not having shown to us any sufficient cause why the said sum so as aforesaid due and unpaid should not be paid: these are therefore to require you forthwith to make distress of the goods and chattels of him the said *A. B.* wheresoever they may be found, or of the occupier or occupiers of the lands or grounds or some part thereof belonging to the said *A. B.* in respect of which the said rate or assessment (rates or assessments) is (or are) made, which may be found in and upon such lands or grounds; and if within the space of five days next after such distress by you taken, the sum of and also the further sum of being the costs already incurred in the premises, making together the sum of together with the reasonable charges of taking and keeping the said distress, shall not be paid, that then you do sell the said goods and chattels so by you distrained, and out of the money arising by such sale that you detain the said sum of and also your reasonable charges of taking, keeping, appraising, and selling the said distress, rendering to him the said *A. B.* the overplus, on demand. Given under our hands and seals this day of one thousand eight hundred and thirty

No. IV.
3 & 4 W. 4,
c. 35.

III. That if any person or persons shall think himself, herself, or Appeal. themselves aggrieved by any thing done in pursuance of this act, then and in every such case he, she, or they may appeal to the next court of general quarter sessions of the peace which shall be holden not less than ten days after the cause of such complaint for the county, riding, division, or place wherein the cause of complaint shall have arisen; provided that such person shall give to the complainant a notice in writing of such appeal, and of the cause and matter thereof, within eight days after such cause of complaint, and six clear days at the least before such sessions, and shall also enter into a recognizance within such six days, with sufficient surety, before a justice of the peace for the same county, riding, division, or place, conditioned to appear at the said sessions, and to try such appeal, and to abide the judgment of the court thereupon, and to pay such costs as shall be awarded by the court; and the court at such sessions shall hear and determine the matter of such appeal, and shall make such order therein, with or without costs to either party, as to the court shall seem meet.

IV. That no such warrant of distress or adjudication made on appeal therefrom shall be quashed for want of form.

V. Provided always, That at the hearing of the said complaint and appeal, or either of them, no person shall be an incompetent witness by reason of his or her being rated or liable to be rated to the said rate or assessment, rates or assessments.

Warrant not to be quashed for want of form.

Rated persons not to be disqualified from giving evidence.

[No. V.] [3 & 4 W. IV. c. 87.—An Act for remedying a Defect in Titles to Messuages, Lands, Tenements, and Hereditaments allotted, sold, divided, or exchanged under Acts of Inclosure, in consequence of the Award not having been inrolled, or not having been inrolled within the Time limited by the several Acts; and for authorizing the Appointment of new Commissioners in certain Cases where the same shall have been omitted. [28th August 1833.]

WHEREAS by divers acts of inclosure the awards or instruments in writing, thereby directed to be formed and drawn up or made by the commissioner or commissioners appointed by or by virtue of such acts for executing the powers and authorities thereof respectively, are directed or required to be inrolled by or with the clerk of the peace of the county, riding, division, soke, or place in which the lands to which such acts respectively relate are situated, or in one of his Majesty's courts of record at Westminster, or in some other court, and, in certain of the said acts, within certain times mentioned in such acts next after the execution of such awards or instruments in writing respectively; and in certain of the said acts new commissioners are directed to be appointed within certain times thereby respectively limited: And whereas in a great number of instances such awards or instruments in writing have not been inrolled, or have not been inrolled within the time directed or required by the several acts; and by reason of such omission the title to the messuages, lands, tenements, and hereditaments allotted, sold, divided, or exchanged under such acts respectively may be considered defective; and in many instances new commissioners have not been appointed within the time directed by the several acts: And whereas it is expedient that provision should be made for remedying such defects: may it therefore please your Majesty that it may be enacted; and be it enacted, &c., That every award already made and executed under or in pursuance of any act of inclosure, and which has not been inrolled, or which has not been inrolled within the time limited by the act under or in pursuance of which such award shall have been made, shall from the time of the execution of such award be as good and valid and of the same effect in all respects as if such award had been inrolled in the manner, and within the time, if any, appointed and limited for that purpose in the act under or in pursuance of which the same has been made.

All awards already made but not inrolled shall, from the execution thereof be as valid as if inrolled within the time limited by the act.

Proprietors of lands may cause awards to be inrolled.

Copy of any award so inrolled and signed by the proper officer to be delivered to any person requiring the same.

II. That where any award already made and executed under or in pursuance of any act of inclosure has not been inrolled, it shall be lawful for any person or persons having or deriving title to any messuages, lands, tenements, and hereditaments under such award, at his, her, or their expence, to require and cause such award, with any maps or plans annexed or relating thereto, to be inrolled in any one of his Majesty's courts of record at Westminster, or by the clerk of the peace of the county, riding, division, soke, or place in which the lands to which such award shall relate are situated, to the end that recourse may be had thereto by any person or persons interested therein, for the inspection and perusal whereof no more than one shilling shall be paid; and a copy of such award when so inrolled, or of any part thereof, signed by the proper officer of the court wherein the same shall be inrolled, or by the clerk of the peace for such county, riding, division, soke, or place, or his deputy, purporting the same to be a true copy, shall from time to time be made and delivered by such officer or clerk of the peace for the time being, or his deputy, to any person or persons requesting the same, for which no more shall be paid than three-pence for every sheet of seventy-two words; and every award already made, whether inrolled or not, and every copy of such award when inrolled as aforesaid, or of

any part thereof, signed as aforesaid, shall at all times be admitted and allowed in all courts whatsoever as legal evidence.

III. That if any commissioner shall be dead or incapable of acknowledging his award before such award shall be inrolled, the same award may be inrolled without the acknowledgment of such commissioner, on due proof being given that such award is the deed or instrument of such commissioner.

No. V.
3 & 4 W. 4,
c. 87.

As to practice
requiring ac-
knowledge-
ment of deeds.

IV. That where any award already made and executed under or in pursuance of any act of inclosure shall be deposited in any parish church, it shall be considered as in the custody of the officiating minister and churchwardens for the time being of such parish church; and where any such award shall be in the possession of the lord of any manor to or for whom, or to or for any preceding lord of which manor, any allotment shall have been made under such award, or in the possession of the steward of such manor, it shall be considered as in the custody of the lord of such manor for the time being; and the steward shall, when required, deliver up the same accordingly; and the said minister and churchwardens, or lord, as the case may be, shall from time to time, upon the request of any person or persons interested in any allotment or allotments, or otherwise, under such award, cause the same to be produced for the inspection of such person or persons on being paid by him, her, or them a just and reasonable compensation for such production, and shall also cause the same to be produced for the purpose of being inrolled, or in any court of law or equity, or on any other occasion, for the purpose of being given in evidence, on being paid all just expences.

As to the pos-
session of
awards when
deposited.

V. That where any such award as aforesaid shall not be deposited in the parish church of the parish in which the lands to which such award shall relate are situated, and shall not be in the possession of the lord or steward of any manor to or for the present or any preceding lord of which manor an allotment shall have been made under such award, but shall be in the possession of any other person, it shall be lawful for any person or persons interested in any allotment or allotments, or otherwise, under such award, to require the same to be deposited in the parish church of the parish in which the lands to which such award shall relate are situated, and the person in whose possession the same shall be shall, on such request, deliver up the same to the minister and churchwardens for the time being of such parish church, for the purpose of being so deposited.

Proprietors
may require
awards to be
deposited in the
church or with
the lord of the
manor.

VI. That in all cases where in or by virtue of any act or acts of inclosure heretofore passed provision hath been made for the election, nomination, or appointment, within a time therein limited or directed, of a new commissioner or commissioners in the event of the death, refusal, or neglect to act of the commissioner or commissioners appointed by or by virtue of such act or acts, or of his or their becoming, by reason of absence beyond the seas, or otherwise, incapable of acting in the execution of the powers, authorities, and trusts in such commissioner or commissioners vested and reposed, before the same and every of them shall have been fully executed and performed, and where any such election, nomination, or appointment as aforesaid, or any of them, shall have been neglected or omitted to have been made, pursuant to such act or acts, within the time or times thereby limited or directed, then and in every such case it shall and may be lawful to and for the person or persons by any such act or acts of inclosure authorized or empowered for that purpose, and on such notice or notices and at such meeting or meetings (if any) as required or directed by any such act or acts of inclosure, to proceed at any time after the passing of this act to the election, nomination, and appointment of, and to elect, nominate, and appoint in such manner as by such act or acts of inclosure is or are directed, one or more fit and proper person or persons (as the case may require), not interested in the division, allotment, or inclosure by such act or acts of inclosure directed or authorized to be made, and not

Providing for
appointment of
commissioners
in cases where
they have been
neglected or
omitted to be
made.

No. V.
3 & 4 W. 4,
c. 87.

otherwise disqualified by such act or acts respectively, as a commissioner or commissioners in the room, place, or stead of the commissioner or commissioners so dying, refusing, or neglecting, or becoming incapable of acting as aforesaid, and to do all other acts, matters, and things which shall be requisite or necessary for effecting the purposes aforesaid, notwithstanding the time so limited or appointed as aforesaid for doing or performing the same shall then have elapsed, and so from time to time as often as any commissioner so to be elected, nominated, or appointed as aforesaid shall die, refuse, neglect, or become incapable of acting as aforesaid; and the several writings appointing such new commissioner or commissioners, and all other documents (if any) relative thereto, shall be deposited or disposed of as by such act, or acts of inclosure is or are directed; and every commissioner to be elected, nominated, or appointed by virtue of this act to execute the powers, authorities, and trusts of any act or acts of inclosure as aforesaid, having first taken the oath or oaths, and complied with the other terms or conditions (if any) prescribed in and by such act or acts of inclosure, shall have the same powers and authorities, and no others, for putting or carrying into execution such act or acts, as if he had been duly elected, nominated, and appointed for those purposes, within the time limited or directed by such act or acts of inclosure.

Act not to give
greater validity
to awards than
as respects the
defects.

VII. Provided always, That nothing herein contained shall extend to affect any public right, or otherwise to give any greater force or validity to any award already made and executed under or in pursuance of any act of inclosure, than such award would have had if this act had not been made, except so far as respects the several defects herein-before respectively specified and provided for.

PART II.

CLASS IV.

JOINT-TENANTS, COPARCENERS, AND TENANTS IN COMMON.

[By the recent statute of limitations, 3 & 4 W. 4, c. 27, s. 12, the rule of law that the possession of one joint-tenant, coparcener, or tenant in common is the possession of the others of them, has been altered. And by the same act, s. 36, the writ of partition, whereby joint-tenants were compellable at law to divide their lands is abolished. See the clauses, *post.* Part III, Class 8.]

PART II.

CLASS V.

MORTMAIN AND CHARITABLE USES.

[No. I.] 1 & 2 W. IV. c. 34.—An Act for appointing Commissioners to continue the Enquiries concerning Charities in England and Wales for Two Years, and from thence to the end of the then next Session of Parliament. (1)

[15th October 1831.]

WHEREAS, &c., [Recites the titles of the 58 G. 3, c. 91. 59 G. 3, c.

81. 5 G. 4, c. 58. 10 G. 4, c. 57]: And whereas the commissioners appointed under and by virtue of the said two first-mentioned acts pursued the inquiries thereby authorized and directed, and made several reports of their proceedings; but their powers expired on the first day of July one thousand eight hundred and thirty: And whereas many charities still remain to be investigated, and further time will be required for that purpose, and it is therefore highly expedient that commissioners should be appointed for the purposes aforesaid, to act according to the provisions and limitations herein-after expressed and contained: be it therefore enacted, &c., That it shall and may be lawful for his Majesty to issue a commission under the great seal to any number of persons not exceeding twenty, who shall be constituted commissioners for the purposes intended by this act; and that they the said commissioners shall and they are hereby empowered and required, in manner herein-after mentioned, to examine into and investigate the amount, nature, and application of all estates and funds of what nature or kind soever, and the produce thereof, destined or intended to be applied to the purpose of educating the poor in England and Wales, or to the support of any charity or charities, or charitable donation or donations for the benefit of poor persons in England and Wales, or held under trusts created for any charitable uses or purposes whatever in England or Wales, or held under trusts created for any charitable uses or purposes whatever in England or Wales, (except as is herein-after provided and excepted,) and to examine into and investigate all breaches of trust, irregularities, frauds, abuses or supposed abuses, or misconduct in relation to and in the management or appropriation or nonappropriation or misappropriation of such estates and funds; and the said commissioners or any five of them shall once in each half year, during the continuance of the said commission, report and certify in writing under their hands and seals, to the king's most excellent Majesty, their proceedings touching the amount, nature, management, application, and appropriation of such of the aforesaid estates and funds as they shall have inquired and examined into, and also what is the nature of such estates and funds respectively, and the actual annual produce thereof, and what is the actual annual value thereof, and in whose possession as tenants thereof any part thereof consisting of lands, tenements, or hereditaments shall be, adding at the same time such observations as shall occur to them respecting such mode as they shall deem most effectual for the recovering of such part or parts of such estates or funds as shall appear to them to have been applied in breach of the several trusts created in respect of the same, or shall appear to have been omitted to be applied in pursuance of such trusts, and subjoining such suggestions as may seem to

Commissioners to be appointed to inquire into the nature and management of charities.

To report half-yearly.

(1) See the 5 & 6 W. 4, c. 71, post.

No. I. them expedient respecting the most effectual mode of securing such
1 & 2 W. 4, estates and funds, and their respective produce, against any future
c. 34. misapplication thereof.

Remuneration and allowance. II. That no remuneration shall be given, for and in respect of the execution of this act, to such of the said commissioners as shall be members of either house of parliament, nor to any number exceeding ten of the other commissioners, but there shall be allowed and paid to every such commissioner such reasonable sums for and in respect of such travelling expences as may come to be incurred in the execution of this act as in the judgment of the lord high treasurer or the commissioners of his Majesty's treasury for the time being shall be deemed requisite.

If estates cannot be applied, commissioners to report specially. III. That if upon such inquiry as aforesaid it shall appear to the said commissioners that from any cause whatsoever it has become impossible to apply the estates or funds aforesaid, or any part thereof, to the purposes to which the same were destined or directed to be applied, the said commissioners shall report the special circumstances of each case.

Commissioners; to take an oath. IV. That the said commissioners to be appointed by virtue of this act shall each of them, previously to his entering upon the execution of the same, take an oath before the chancellor of the exchequer or the master of the rolls for the time being, (which oath they are hereby respectively authorized and required to administer,) the tenor whereof shall be as follows; (that is to say,)

' [A. B. do swear, That, according to the best of my skill and knowledge, I will faithfully, impartially, and truly execute the several powers and trusts vested in me by an act, intituled *An Act* [*here insert the Title of this Act*], according to the tenor and purport of the said act.'

Appointment of secretary, clerks, &c V. That it shall and may be lawful for the said commissioners and they are hereby authorized to appoint and employ such secretary, clerks, messengers, and officers, not exceeding in the whole one secretary, five clerks, one messenger, and two other officers, as they shall think meet, and to administer to the said secretary, clerks, and officers respectively an oath for his true and faithful demeanor in all things relating to the due performance of any trust respecting the execution of this act reposed in him by the said commissioners, and in all other things touching the premises; which secretary, clerks, and officers are hereby required faithfully to execute and perform the said trust in them severally and respectively reposed, without taking any thing for such their service other than such salary or reward as the said commissioners shall think fit to direct and appoint in their behalf.

Commissioners' meetings. VI. That for the purpose of prosecuting the inquiries and examinations by this act directed, the said commissioners or any two of them shall meet, and from time to time, with or without adjournment, hold their sittings within the city of Westminster, or in any other city, town, borough, hamlet, village, or place respectively in England or Wales which to them shall appear most convenient for executing the purposes of this act; and the said commissioners are hereby authorized to require, by precepts under their hands and seals, or under the hands and seals of any two of them, from any person or persons acting as a trustee or trustees for any of the said estates or funds, or having any concern in the management or administration of the same, or in the payment or receipt of any of the said funds or estates, or any charge upon any fund or estate applicable to any charitable uses or purposes as aforesaid, to render to the said commissioners a true account, as far as consists with their knowledge, of all that relates to such funds or estates as aforesaid under their trust or management, or on account of which they may have acted in making or receiving payments; and as often as need shall be, to send their precepts under their hands and seals, or under the hands and seals of any two of them, for any person or per-

Power to require the attendance of persons and production of papers.

sons whomsoever to attend them, and require such person or persons to bring with him, her, or them any deed, paper, writing, instrument, or other document being in his, her, or their custody and possession, and relating to any such estates or funds or the produce thereof, or to the receipt or application or nonapplication or misapplication thereof, which shall in the judgment of such commissioners be conducive and necessary to the due execution of the purposes of this act; and every person to whom such precept shall as aforesaid have been addressed and delivered is hereby required and directed punctually to attend the said commissioners at such time and place as shall for that purpose have been appointed; and to every such person or persons may be paid such sum of money as in the judgment of the said commissioners shall be just and reasonable: Provided always, that no such person shall be obliged to travel in obedience to such precept more than ten miles from his or her place of abode.

No. I.
1 & 2 W. 4,
c. 34.

No person
obliged to
travel more
than ten miles.

VII. And for rendering more effectual all such examinations as are intended to be had under this act, be it enacted, That the said commissioners are hereby authorized to examine upon oath, or affirmation of persons being quakers (which oath or affirmation the said commissioners or any two of them are hereby respectively authorized to administer), all persons whom they are by the provisions of this act empowered to call before them to be examined, touching all matters and things necessary for the execution of the powers vested in them by this act.

Commissioners
empowered to
examine upon
oath.

VIII. That whenever any such two commissioners shall in their judgment think it expedient that each or either of them should pursue any examination separately and without the assistance or presence of the other of such two commissioners, each of such two commissioners shall on such occasion have the same powers of issuing precepts, administering oaths, and conducting the examinations prescribed by this act, and under the same rules and regulations, as are hereby vested in the said commissioners or any two of them; and that it shall be lawful for the said commissioners or any five of them, when they may see occasion, to authorize and direct any one commissioner to sit within the city of Westminster alone, or to resort alone to any other city, town, borough, hamlet, village, or place in England or Wales, for the purpose of examining into the case or cases of any particular charity or charities; and then also and in such case such commissioner shall have the same powers of issuing precepts, administering oaths, and conducting the examinations prescribed by this act, and under the same rules and regulations, as are herein-before vested in the said commissioners or any two of them.

One commis-
sioner may act
in certain cases.

IX. That the said commissioners respectively shall and they are hereby required to cause the examinations which shall be taken before them respectively, and all papers and documents being parts of such examinations, to be from time to time transmitted to the secretary of the said commissioners at their office in Westminster aforesaid.

Examinations,
&c. to be trans-
mitted to the
secretary.

X. That in case any person upon examination on oath, or being a quaker upon affirmation, before the said commissioner or commissioners, shall wilfully and corruptly give false evidence, every such person so offending, and being thereof duly convicted, shall be and is hereby declared to be subject and liable to such pains and penalties as under any law now in force may be inflicted on persons convicted of wilful and corrupt perjury.

Penalties of
perjury for false
swearing.

XI. That if any person summoned to appear before the said commissioners or any one of them shall wilfully omit or refuse to appear before such commissioners or commissioner, or to bring or produce any deed, paper, or writing, instrument or other document in his or her possession, custody, or power, and which he or she shall be required by the precept of any such commissioners or commissioner to produce, relating wholly to the estates or funds which shall be the subject of enquiry before the said commissioners or commissioner, or to the

Persons re-
fusing to appear
before commis-
sioners, or to
produce deeds
or answer ques-
tions, liable to
be fined by the
court of king's
bench or ex-
chequer.

No. I.
1 & 2 W. 4,
c. 34.

receipt or application or nonapplication or misapplication thereof, or to the state of the schools or charities which shall be the subject of enquiry before such commissioners or commissioner, or the true copy of any part or parts of any deed, paper, writing, or other instrument (and which copy any such commissioners or commissioner are or is hereby empowered to require by such precept), or shall refuse to be sworn, or being a quaker to affirm, or being sworn, or being a quaker having affirmed, shall refuse to answer to and before the said commissioners or commissioner, or to answer fully, any lawful question on oath or affirmation touching or concerning any matter or thing relating to such estates or funds as aforesaid, or to the state of such schools or charities as aforesaid (except in cases excepted by this act), every such person so refusing to comply with any such lawful requisitions of the said commissioners or commissioner shall be liable to the payment of such fine to his Majesty as the court of king's bench or the court of exchequer, on application made by or on the behalf of the said commissioners or commissioner, or by his Majesty's attorney general for the time being, shall think fit to set and impose, which fine the said court of king's bench or court of exchequer is hereby authorized and empowered to set and impose according to their discretion respectively, and to enforce payment of the same, by attachment or otherwise, in such manner as the said courts respectively may do in cases of contempt of the same courts.

Purchasers without notice not bound to answer interrogatories.

XII. Provided always, That if any person who shall be summoned to appear before the said commissioners or any one of them shall, upon his or her examination, allege that he or she hath purchased or obtained for valuable consideration any estate or interest of, in, to, or out of any lands, tenements, rents, annuities, hereditaments, goods, or chattels touching which he or she shall be sought to be so examined, without fraud or covin, having no notice of any charitable trust or use to which the said lands, tenements, rents, annuities, hereditaments, goods, or chattels, or any charge thereon, have been given, limited, or applied, then such person shall not be bound to make further answer to any interrogatory of such commissioners or commissioner, nor to produce or show to them or him any deed, paper, writing, instrument, or other document relating to his or her estate or interest in such lands, tenements, rents, annuities, hereditaments, goods, or chattels.

Mortgagees, trustees, &c. not compellable to produce deeds, without notice to mortgagors, cestui-que trusts, &c.

XIII. Provided also, That no person having the custody of any deed, paper, writing, instrument, or other document, as mortgagee, trustee or agent, solicitor or attorney, shall be compellable to produce the same, or to give any evidence as to the contents thereof, without notice being first given to his mortgagor, cestui que trust or principal and the said mortgagor, cestui que trust or principal being examined touching the same by the said commissioners or commissioner; and in case such mortgagor, cestui que trust, or principal shall, by the provisions of this act, be exempted from producing the said deed, paper, writing, instrument, or other document, then the mortgagee, trustee or agent, solicitor or attorney, shall not be bound to produce or show the same, or give any evidence of the contents thereof, to the said commissioners or commissioner: Provided also, that no person shall be compellable to answer any question, or to produce any deed, paper, writing, instrument, or other document, the answer to which or the production of which may criminate or tend to criminate such person, or to expose such person to any pains or penalties.

Persons not compellable to criminate themselves.

Officers having custody of records, to furnish extracts if required by a commissioner.

XIV. That whenever any extract from the inrolment of any charter or deed, or from any decree, report, record, or other document whatever, deposited or remaining in any of the offices belonging to or under the control of the courts of chancery or exchequer, or in any public registry, shall be required for the purposes of this act by an order signed by one of the commissioners under this act, the officer or officers having the custody of such inrolment, decree, report, record, or other document shall furnish an extract of so much only as shall be so required of any such inrolment, decree, report, record, or other document; and that any

such extract or any copy which shall be required for the purposes of this act, by any order signed by one of the said commissioners, of any such inrolment, decree, report, record, or other document, shall not be subject or liable to the payment of any stamp duty whatever, any law, statute or usage to the contrary in anywise notwithstanding.

No. I.
1 & 2 W. 4,
c. 34.

XV. That in case of a vacancy or vacancies by death, removal, or resignation of any such commissioners, it shall be lawful for his Majesty, his heirs and successors, to nominate and appoint such person or persons as he or they may think proper for the supplying of such vacancy or vacancies.

on such No stamp duty
extracts, &c.
Vacancies of
commissioners
may be filled
up.

XVI. That this act or any of the provisions therein contained shall not extend or be construed to extend to either of the universities of Oxford or Cambridge, nor to any college or hall within the same, nor to any schools or other endowments of which the said universities, colleges, or halls are trustees; nor to the colleges of Westminster, Eton, or Winchester; nor to the Charter House; nor to the royal hospitals of Christ, Bridewell, St. Thomas the Apostle, St. Bartholomew, and Bethlehem; nor to the schools of Harrow or Rugby, or any of them; nor to any cathedral or collegiate church within England or Wales; nor to the corporation of the Trinity House of Deptford Strand; nor to any funds applicable to the benefit of any persons of the Jewish persuasion, or the people called quakers, or persons of the Roman Catholic persuasion, and which shall be under the superintendence and control of persons of such persuasions respectively.

Act not to extend to universities and certain schools, &c.;

XVII. Provided also, That this act or any of the provisions therein contained shall not extend or be construed to extend to any institution, establishment, or society for charitable purposes, wholly or principally maintained by voluntary contributions, and under the superintendence and control of any committee or governors or other person or persons chosen or appointed out of or by voluntary subscribers thereto; and that the application of any donation or bequest to the general purposes of any such institution, establishment or society, in aid of such voluntary contributions, shall not be subject to the examination or interference of the commissioners appointed under this act: Provided always, that the management and application of the rents and profits of any lands, tenements, or hereditaments belonging to such institution, establishment, or society, for the period of twenty years or upwards before the passing of this act, shall in all such cases be subject to the examination of the said commissioners at their discretion.

nor to charities chiefly supported by voluntary contributions;

except as to management and application of rents for 20 years.

XVIII. That any action or suit which shall be brought against any commissioner or commissioners to be appointed under the authority of this act, or against any person or persons acting under the authority or by the order of such commissioners, or any one or more of them, for any thing done or acted by him or them under this act, shall be commenced within six calendar months next after the fact committed (in respect of which such action or suit shall be brought or commenced) and not afterwards; and the defendant or defendants in every such action or suit may plead the general issue, and give this act and the special matter in evidence at any trial to be had thereupon; and if such action or suit shall be brought or commenced after the time so limited for bringing the same, then the jury shall find a verdict for the defendant or defendants; and in such case, or if the jury shall find a verdict for the defendant or defendants upon the merits, or if the plaintiff or plaintiffs shall become nonsuit, or discontinue his, her, or their action after appearance, or if upon demurrer judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall have treble costs, which he or they shall and may recover in such and the same manner as any defendant can by law in other cases.

Limitation of actions.

General issue.

Treble costs.

XIX. That this act shall continue in force until the first day of September one thousand eight hundred and thirty-three, and from thence until the end of the then next session of parliament.

Continuance of act.

No. II.
1 & 2 W. 4,
c. 57.

[No. II.] 1 & 2 W. IV. c. 57.—An Act to continue and extend the Provisions of an Act passed in the Fifty-ninth Year of his Majesty King George the Third, for giving additional facilities in Applications to Courts of Equity regarding the Management of Estates or Funds belonging to Charities; and for making certain Provisions respecting Estates or Funds belonging to Charities. [23d June 1832.]

WHEREAS by an act passed in the fifty-ninth year of the reign of his late Majesty king George the third it was, amongst other things, enacted, that whenever, upon any examination or investigation taken or had by and before the commissioners appointed or to appointed under the authority of certain acts of the fifty-eighth and fifty-ninth years of his said late Majesty therein-before mentioned, any case should arise or happen in which it should appear to the said commissioners that the directions or orders of a court of equity were requisite for the remedying of any neglect, breach of trust, fraud, abuse, or misconduct in the management of any trust created for any charitable purposes as therein-before mentioned, or of the estates or funds thereunto belonging, or for the regulating the administration of any such trust, or of the estates or funds thereof, it should and might be lawful for the said commissioners, or any five or more of them, if they should think fit, to certify the particulars of such case in writing under their hands to his Majesty's attorney general, and thereupon it should be lawful for his Majesty's attorney general, if he should so think fit, either by a summary application in the nature of a petition, or by information, as the case might require, to apply to or commence a suit in his Majesty's high court of chancery, or to or in his Majesty's court of exchequer sitting as a court of equity, stating and setting forth the neglect, breach of trust, fraud, abuse, or misconduct, or other cause of complaint or application, and praying such relief as the nature of the case might require; and after such petition should have been presented or suit instituted, such proceedings were to be had thereupon as in the said act now in recital mentioned: And whereas the powers of the said commissioners expired on the first day of July one thousand eight hundred and thirty, and many charities still remain to be investigated:

1 & 2 W. 4,
c. 34.

And whereas an act was passed in the last session of parliament, intituled *An Act for appointing Commissioners to continue the Inquiries concerning Charities in England and Wales for Two Years, and from thence to the end of the then next session of Parliament*, whereby his Majesty was empowered to issue a commission, enabling the commissioners therein to be named to investigate such remaining charities: And whereas it is expedient that the provisions of the said recited act of the fifty-ninth year of the reign of his said late Majesty should be continued in manner herein-after mentioned; and it is also expedient to facilitate the proofs in proceedings instituted or to be instituted under the said last-mentioned act, or of this act, in manner herein-after mentioned: And whereas it is expedient to make such provisions respecting estates or funds belonging to charities as herein-after mentioned: Be it therefore enacted, &c., That it shall and may be lawful for the said commissioners appointed or to be appointed under the authority of the said act of the last session of parliament, or under the authority of any act to be hereafter passed for the like purpose, or any five or more of them, to make such certificates from time to time to his Majesty's attorney general as the commissioners appointed under the authority of the said acts of the fifty-eighth and fifty-ninth years of the reign of his said late Majesty were empowered to do; and thereupon such proceedings shall or may be had and taken as were authorized or directed by the said recited act of the said fifty-ninth year of his said late Majesty's reign, in the same manner to all intents and purposes as

Commissioners appointed under recited act of 1 & 2 W. 4, authorized to make certificates to the attorney general as commissioners under former acts were empowered to do.

if the provisions of that act, as to such certificates and proceedings, were embodied in and re-enacted by this act.

II. That in all cases of proceedings instituted or to be instituted by his Majesty's attorney general in pursuance of the said recited act of the fifty-ninth year of his said late Majesty's reign, or of this act, the production to the court of a certificate under the hand of his Majesty's attorney general, stating that the particulars of the case in question, in writing, have been certified to his Majesty's attorney general for the time being according to the provisions of the said recited act of the fifty-ninth year of his said late Majesty, or of this said act, as this case may be, shall be deemed sufficient evidence that such particulars have been duly certified to his Majesty's attorney general accordingly, to and for all intents and purposes whatsoever.

III. That where the person, or all the persons, if more than one in whom any lands, hereditaments, rent-charge, or other real property may have been vested in trust for any charity or charitable or public purpose, shall be dead, it shall be lawful for the said court of chancery or the said court of exchequer, on the petition of his Majesty's attorney general, or of the persons or body administering such charity or superintending such public purpose, or of any person on behalf thereof, to direct any master or other officer of the said courts respectively to cause two successive advertisements to be inserted in the *London Gazette*, and in one or more of the newspapers circulated in the county, city, or place where such land, hereditaments, or real property, or the lands or hereditaments out of which such rent-charge is issuing, shall be situated, giving notice that the representative or representatives of the person of the last survivor of the persons in whom any land, hereditaments, rent-charge, or other real property may have been vested in trust as aforesaid do within twenty-eight days appear or give notice of his or their title to such master or other officer, and prove his or their pedigree or other title as trustee; and if no person shall appear to give such notice within such twenty-eight days, or the person or persons who may appear or give such notice shall not within thirty-one days after such appearance or notice prove his or their title to the satisfaction of such master or other officer, then and in such case it shall be lawful for the said courts respectively to appoint any new trustees for such charity or charitable or public purpose, in case no trustees for such charity or purpose duly appointed shall then be existing; and such land, hereditaments, rent-charge, or other real property may be conveyed to such new trustees when so appointed by the said courts respectively, or to the existing trustees previously duly appointed, as the case may be, by any person whom the said courts respectively may direct for that purpose by virtue of the provisions in this act, without the necessity of any decree.

IV. That whenever it shall appear to the said commissioners to be appointed under the authority of the said act of the last session of parliament that the property belonging to any charity consists only of one or more annuity or rent-charge, annuities or rent-charges, not exceeding in the whole the yearly sum of twenty pounds, and that there are no existing trustees or persons legally qualified to receive and give an effectual discharge for such annuity or rent-charge, annuities or rent-charges, it shall and may be lawful for any five of the said commissioners, by writing under their hands and seals, to empower the resident minister and the churchwardens or chapelwardens for the time being of the parish or place interested in such charity, in case only one parish or place is so interested, but if more than one parish or place is so interested, then the resident minister and the churchwardens or chapelwardens of some one of the parishes or places interested, to receive the said annuity or rent-charge, annuities or rent-charges, or any arrears thereof, and to apply the same according to the purposes of the charitable donations or bequests thereof, in the same manner as the trustees of the said charity would have been bound to do; and the power so to

No. II.
1 & 2 W. 4,
c. 57.

Attorney general's certificate to be evidence of particulars of cases having been duly certified by commissioners.

Courts of chancery or exchequer empowered to direct conveyances of charity estates in certain cases.

For empowering resident ministers and churchwardens to receive rent-charges belonging to charities, where there are no existing trustees.

No. II.
1 & 2 W. 4,
c. 57.

be given to such minister and churchwardens or chapelwardens shall remain in force until trustees of the said charity duly appointed shall appear and claim the administration of the funds thereof, or until trustees of the said charity shall be appointed by the court of chancery or court of exchequer: and all receipts to be given by such minister and churchwardens or chapelwardens shall be effectual discharges to the persons liable to the payment of such annuities or rent-charges for all such sums as in such receipts shall be expressed to have been received in respect thereof; and in case of non-payment of such annuities or rent-charges, or any arrears thereof, it shall and may be lawful for such minister and churchwardens or chapelwardens respectively, during the continuance of the power to be given to them by virtue of the provisions of this act, to use and exercise all such powers and remedies for recovering and compelling payment of the said annuities or rent-charges, and the arrears thereof, as the trustees of the said charities respectively might or could have done if duly appointed.

[No. III.] 2 & 3 W. IV. c. 115.—An Act for the better securing the Charitable Donations and Bequests of his Majesty's Subjects in Great Britain professing the Roman Catholic Religion.
[15th August 1832.]

1 W. & M.
c. 18.

1700, c. 3.

WHEREAS by an act passed in the first year of the reign of king William and queen Mary, intituled *An Act for exempting His Majesty's Protestant Subjects dissenting from the Church of England from the Penalties of certain Laws*, and by certain subsequent statutes, the schools and places for religious worship, education, and charitable purposes of Protestant dissenters are exempted from the operation of certain penal and disabling laws to which they were subject previously to the passing of the said recited act of the first year of the reign of king William and queen Mary: and whereas by certain acts of the parliament of Scotland, and particularly by an act passed in the year one thousand seven hundred, intituled *An Act for preventing the Growth of Popery*, various penalties and disabilities were imposed upon persons professing the Roman catholic religion in Scotland: And whereas, notwithstanding the provisions of various acts passed for the relief of his Majesty's Roman catholic subjects from disabling laws, doubts have been entertained whether it be lawful for his Majesty's subjects professing the Roman catholic religion in Scotland to acquire and hold in real estate the property necessary for religious worship, education, and charitable purposes: And whereas it is expedient to remove all doubts respecting the right of his Majesty's subjects professing the Roman catholic religion in England and Wales to acquire and hold property necessary for religious worship, education, and charitable purposes: Be it therefore enacted, &c., That from and after the passing of this act his Majesty's subjects professing the Roman catholic religion, in respect to their schools, places for religious worship, education, and charitable purposes, in Great Britain, and the property held therewith and the persons employed in or about the same, shall in respect thereof be subject to the same laws as the Protestant dissenters are subject to in England in respect to their schools and places for religious worship, education, and charitable purposes, and not further or otherwise. (1)

Roman catho-
lica to be sub-
ject to the same
laws as protes-
tant dissenters,
with respect to
schools and
places of
worship.

Roman
catholic school- II. Provided always, That in all cases in which schoolmasters or other persons employed in such schools or other places are, as a legal

(1) Where a testator, who died in 1823, gave two legacies to the respective trustees of certain Catholic schools upon trust for carrying on the good designs of the said schools, it was held that the above act was retrospective, and that the trustees were entitled to the legacies. *Bradshaw v. Tasker*, 2 Mylne & Keene 221.

qualification for such employments, now required by law to take the oath of supremacy, or the oath or declaration against transubstantiation and the invocation of saints and sacrifice of the mass, or to receive the sacrament of our Lord's Supper, or, in Scotland, to subscribe the formula annexed to the aforesaid act for preventing the growth of popery, any such schoolmaster, or other master, professing himself a Roman catholic, shall, in lieu of the qualification aforesaid for holding such employment, take the oath contained in the statute passed in the tenth year of his late Majesty, intituled *An Act for the Relief of His Majesty's Roman Catholic Subjects*, and at the times and in manner in that act mentioned.

No. III.
2 & 3 W. 4,
c. 115.

masters, when required to take oath, to take that prescribed by 10 G. 4, c. 7.

III. Provided always, That nothing in this act contained shall affect any suit actually pending or commenced, or any property now in litigation, discussion, or dispute, in any of his Majesty's courts of law or equity in Great Britain.

Act not to affect pending suits.

IV. Provided always, That nothing in this act contained shall be taken to repeal or in any way alter any provision of an act passed in the tenth year of the reign of his late Majesty king George the fourth, intituled *An Act for the Relief of His Majesty's Roman Catholic Subjects*, respecting the suppression or prohibition of the religious orders or societies of the church of Rome bound by monastic or religious vows.

Nor to repeal provisions in 10 G. 4, c. 7, for suppression of certain religious societies.

V. Provided always, That all property to be acquired or held for such purposes of religious worship, education, and charitable purposes, in England and Wales, shall be subject to the provisions of an act passed in the ninth year of the reign of king George the second, intituled *An Act to restrain the Disposition of Lands whereby the same may become unalienable*, and to the same laws as the Protestant dissenters are subject to in England in respect of the acquiring or holding of such property: Provided always, That nothing in this act contained shall be taken to extend the provisions of the said last-recited act to that part of Great Britain called Scotland.

Property held for the purposes mentioned in this act, in England and Wales, to be subject to the provisions of 9 G. 2, c. 36.

[No. IV.] 5 & 6 W. 4, c. 71.—An Act for appointing Commissioners to continue the inquiries concerning Charities in England and Wales until the First Day of March One thousand eight hundred and thirty-seven.

[9th September 1835.]

WHEREAS, &c., [Recites the title of the 58 G. 3, c. 91. 59 G. 3, c. 81. 5 G. 4, c. 58. 10 G. 4, c. 57. 1 & 2 W. 4, c. 34.]: And whereas

the commissioners appointed under and by virtue of the said two first-mentioned and the said last-mentioned acts respectively pursued the inquiries thereby authorized and directed, and made several reports of their proceedings; but the powers of the commissioners appointed under the said last-mentioned act expired on the fifteenth day of August one thousand eight hundred and thirty-four: And whereas many charities still remain to be investigated, and further time will be required for that purpose; and it is therefore expedient that commissioners should be appointed for the purposes aforesaid, to act according to the provisions and limitations herein-after expressed and contained: And whereas an act was passed in the second year of the reign of his present Majesty, intituled *An Act to continue and extend the Provisions of an Act passed in the Fifty-ninth Year of His Majesty King George the Third, for giving additional Facilities in Applications to Courts of Equity regarding the Management of Estates or Funds belonging to Charities; and for making certain Provisions respecting Estates or Funds belonging to Charities*: And whereas it is expedient that certain of the provisions of the said last-recited act should be continued in manner herein-after mentioned: be it therefore enacted, &c., That it shall and may be lawful for his Majesty to issue a commission under the great seal to any number

2 W. 4, c. 57.

Commissioners to be appointed

No. IV.
5 & 6 W. 4,
c. 71.

to inquire into
the nature and
management of
charities.

To report half-
yearly.

Commissioners
to report spe-
cial circum-
stances, where
funds cannot
be applied to
destined pur-
poses.

Salaries to a
limited number
of commis-
sioners.

Commissioners
to take oath be-
fore entering
upon their du-
ties.

of persons, not fewer than thirty, who shall be constituted commis-
sioners for the purposes intended by this act, one of whom shall be and
be denominated the chief commissioner, and shall superintend and
direct the mode of proceeding of the other commissioners acting in the
execution of this act; and that they the said commissioners shall and
they are hereby empowered and required, in manner herein-after men-
tioned, to examine into and investigate the amount, nature, and appli-
cation of all estates and funds of what nature or kind soever, and the
produce thereof, destined or intended to be applied to the purpose of
educating the poor in England and Wales, or to the support of any
charity or charities or charitable donation or donations for the benefit of
poor persons in England and Wales, or held under trusts created for
any charitable uses or purposes whatever in England or Wales (except
as is herein-after provided and excepted), and to examine into and
investigate all breaches of trust, irregularities, frauds, abuses or sup-
posed abuses, or misconduct in relation to and in the management or
appropriation or nonappropriation or misappropriation of such estates
and funds; and the said commissioners shall once in each half year
during the continuance of the said commission report and certify, in
writing under their hands and seals, to the king's most excellent
Majesty, their proceedings touching the amount, nature, management,
application, and appropriation of such of the aforesaid estates and funds
as they shall have inquired and examined into, and also what is the
nature of such estates and funds respectively, and the actual annual
produce thereof, and what is the actual annual value thereof, and in
whose possession, as tenants thereof, any part thereof, consisting of
lands, tenements, or hereditaments, shall be, adding at the same time
such observations as shall occur to them respecting such mode as they
shall deem most effectual for the recovering of such part or parts of
such estates or funds as shall appear to them to have been applied in
breach of the several trusts created in respect of the same, or shall
appear to have been omitted to be applied in pursuance of such trusts,
and subjoining such suggestions as may seem to them expedient re-
specting the most effectual mode of securing such estates and funds and
their respective produce against any future misapplication thereof.

II. That if upon such inquiry as aforesaid, it shall appear to the said
commissioners that, from any cause whatsoever, it has become impos-
sible to apply the estates or funds aforesaid, or any part thereof, to the
purposes to which the same were destined or directed to be applied, the
said commissioners shall report the special circumstances of each case,
subject, as to the mode of making such report, to the directions of the
chief commissioner in that behalf.

III. That no remuneration shall be given, for and in respect of the
execution of this act to such of the said commissioners as shall be
members of either house of parliament, nor to any number exceeding
twenty of the commissioners; but there shall be allowed and paid to
every such commissioner such reasonable sums for and in respect of
such travelling expences as may be incurred in the execution of this
act as in the judgment of the lord high treasurer or the commis-
sioners of his Majesty's treasury for the time being shall be deemed
requisite.

IV. That each of the said commissioners to be appointed by virtue of
this act shall, previously to his entering upon the execution of the same,
take an oath before the chancellor of the exchequer or the master of the
rolls for the time being (which oath they are hereby respectively autho-
rized and required to administer), the tenor whereof shall be as fol-
loweth; (that is to say,)

' I A. B. do swear, That according to the best of my skill and know-
' ledge, I will faithfully, impartially, and truly execute the several
' powers and trusts vested in me by an act intituled [*here insert the title*
' *of this act*], according to the tenure and purport of the said act.'

V. That in case of a vacancy or vacancies by the death, removal, or resignation of any such commissioners, it shall be lawful for his Majesty, his heirs and successors, to nominate and appoint such person or persons as he or they may think proper for the supplying of such vacancy or vacancies.

No. IV.
5 & 6 W. 4,
c. 71.

Vacancies of
by the crown.

commissioners may be filled up

VI. That it shall and may be lawful for the said commissioners and they are hereby authorized to appoint and employ such secretary, clerks, messengers, and officers, not exceeding in the whole one secretary, twenty clerks, one messenger, and two other officers, as they shall think meet, and to administer to each of the said secretary, clerks, and officers an oath for his true and faithful demeanour in all things relating to the due performance of any trust respecting the execution of this act reposed in him by the said commissioners, and in all other things touching the premises; which secretary, clerks, and officers are hereby required faithfully to execute and perform the said trust in them severally and respectively reposed, without taking any thing for such their service other than such salary or reward as the said commissioners shall think fit to direct and appoint in their behalf.

Appointment of
secretary,
clerks, &c.

VII. That, for the purpose of prosecuting the inquiries and examinations by this act directed, the said commissioners, or any one or more of them, shall from time to time hold their or his sittings, with or without adjournment, within the city of Westminster, or in any other city, town, borough, hamlet, village, or place respectively in England or Wales, which to them or him shall appear most convenient for executing the purposes of this act; and the said commissioners or commissioner are or is hereby authorized to require, by precepts under their or his hands and seals or hand and seal, from any person or persons acting as a trustee or trustees for any of the said estates or funds, or having any concern in the management or administration of the same, or in the payment or receipt of any of the said funds or estates, or any charge upon any fund or estate applicable to any charitable uses or purposes as aforesaid, to render to the said commissioners or commissioner a true account, as far as consists with their knowledge, of all that relates to such funds or estates as aforesaid under their trust or management, or on account of which they may have acted in making or receiving payments; and, as often as need shall be, to send their or his precepts, under their or his hands and seals or hand and seal, for any person or persons whomsoever to attend them or him, and require such person or persons to bring with him, her, or them any deed, paper, writing, instrument, or other document being in his, her, or their custody and possession, and relating to any such estates or funds, or the produce thereof, or to the receipt or application or non-application or misapplication thereof, which shall in the judgment of such commissioners or commissioner be conducive and necessary to the due execution of the purposes of this act; and every person to whom such precept shall as aforesaid have been addressed and delivered is hereby required and directed punctually to attend the said commissioners or commissioner at such time and place as shall for that purpose have been appointed; and to every such person or persons may be paid such sum of money as in the judgment of the said commissioners or commissioner shall be just and reasonable: Provided always, That no such person shall be obliged to travel in obedience to such precept more than ten miles from his or her place of abode.

Commissioners
to hold sittings
and summon
persons and
send for papers.

No person ob-
liged to travel
more than ten
miles.

VIII. And for rendering more effectual all such examinations as are intended to be had under this act; be it enacted, That the said commissioners, or one or more of them, are or is hereby authorized to examine upon oath, or upon the affirmation of persons exempted by law from liability to examination upon oath (which oath or affirmation the said commissioners, or any one or more of them, are or is hereby respectively authorized to administer), all persons whom the said commissioners, or any one or more of them, are or is by the provisions of this act empowered to call before them or him to be examined touching all

Commissioners
empowered to
examine upon
oath.

No. IV.
5 & 6 W. 4,
c. 71.

Examinations
and papers to
be transmit-
ted to office in
Penalties of
perjury for false
swearing.

Persons refus-
ing to appear
before commis-
sioners, or to
produce deeds,
&c. or to an-
swer questions,
liable to be
fined by the
court of king's
bench or ex-
chequer.

Purchasers
without notice
not bound to
answer interro-
gatories.

matters and things necessary for the execution of the powers vested in them or him by this act.

IX. That the said commissioners respectively shall and they are hereby required to cause the examinations which shall be taken before them respectively, and all papers and documents being parts of such examinations, to be from time to time transmitted to the secretary of the said commissioners at their office in Westminster aforesaid.

X. That in case any person upon examination on oath or upon affirmation, as the case may be, before the said commissioners or commissioner, shall wilfully and corruptly give false evidence, every such person so offending, and being thereof duly convicted, shall be and is hereby declared to be subject and liable to such pains and penalties as under any law now in force may be inflicted on persons convicted of wilful and corrupt perjury.

XI. That if any person summoned to appear before the said commissioners, or any one or more of them, shall wilfully omit or refuse to appear before such commissioners or commissioner, or to bring or to produce any deed, paper, or writing, instrument or other document, in his or her possession, custody, or power, and which he or she shall be required by the precept of any such commissioners or commissioner to produce, relating wholly to the estates or funds which shall be the subject of inquiry before the said commissioners or commissioner, or to the receipt or application or nonapplication or misapplication thereof, or to the state of the schools or charities which shall be the subject of inquiry before such commissioners or commissioner, or the true copy of any part or parts of any deed, paper, writing, or other instrument (and which copy any such commissioners or commissioner are or is hereby empowered to require by such precept), or shall refuse to be sworn, or, being a person exempted by law from liability to examination upon oath, to affirm, or, being sworn or having affirmed, as the case may be, shall refuse to answer to and before the said commissioners or commissioner, or to answer fully any lawful question on oath or affirmation respectively touching or concerning any matter or thing relating to such estates or funds as aforesaid, or to the state of such schools or charities as aforesaid (except in cases excepted by this act), every such person so refusing to comply with any such lawful requisitions of the said commissioners or commissioner shall be liable to the payment of such fine to his Majesty as the court of king's bench or the court of exchequer, on application made by or on the behalf of the said commissioners or commissioner, or by his Majesty's attorney general for the time being, shall think fit to set and impose, which fine the said court of king's bench or court of exchequer is hereby authorized and empowered to set and impose according to their discretion respectively, and to enforce payment of the same, by attachment or otherwise, in such manner as the said courts respectively may do in cases of contempt of the same courts.

XII. Provided always, That if any person who shall be summoned to appear before the said commissioners, or any one or more of them, shall upon his or her examination allege that he or she hath purchased or obtained for valuable consideration any estate or interest of, in, to, or out of any lands, tenements, rents, or annuities, hereditaments, goods, or chattels, touching which he or she shall be sought to be so examined, without fraud or covin, having no notice of any charitable trust or use to which the said lands, tenements, rents, annuities, hereditaments, goods, or chattels, or any charge thereon, have or has been given, limited, or directed to be applied, then such person shall not be bound to make further answer to any interrogatory of such commissioners or commissioner, nor to produce or show to them or him any deed, paper, writing, instrument, or other document relating to his or her estate or interest in such lands, tenements, rents, annuities, hereditaments, goods, or chattels.

XIII. Provided also, That no person having the custody of any deed, paper, writing, instrument, or other document, as mortgagee, trustee or agent, solicitor or attorney, shall be compellable to produce the same, or to give any evidence as to the contents thereof, without notice being first given to his mortgagor, cestui que trust, or principal, and the said mortgagor, cestui que trust, or principal being examined touching the same by the said commissioners or commissioner; and in case such mortgagor, cestui que trust, or principal shall by the provisions of this act be exempted from producing the said deed, paper, writing, instrument, or other document, then the mortgagee, trustee or agent, solicitor or attorney, shall not be bound to produce or show the same, or give any evidence of the contents thereof, to the said commissioners or commissioner: Provided also, That no person shall be compellable to answer any question, or to produce any deed, paper, writing, instrument, or other document, the answer to which or the production of which may criminate or tend to criminate such person, or to expose such person to any pains or penalties.

XIV. That the said commissioners shall and may receive and send by the general post from and to places within the United Kingdom all letters and packets relating solely and exclusively to the execution of this act free from the duty of postage, provided that such letters and packets as shall be sent to the said commissioners shall be directed to the "Commissioners of Charities," at their office in Westminster, and that all such letters and packets as shall be sent by the said commissioners shall be in covers with the words "Office of Commissioners of Charities, pursuant to an Act of Parliament passed in the Sixth Year of the Reign of his Majesty King William the Fourth," printed on the same, and be signed on the outside thereof under such words with the name of such persons of the said commissioners, with the consent of the lords commissioners of the treasury or any three or more of them, shall authorize and appoint, in his own handwriting, (such name to be from time to time transmitted to the secretaries of the General Post Office in London and Dublin,) and under such other regulations and restrictions as the said lords commissioners, or any three or more of them, shall think proper and direct; and the person so to be authorized is hereby strictly forbidden so to subscribe any letter or packet whatsoever except such only concerning which he shall receive the special direction of his superior officer, or which he shall himself know to relate solely and exclusively to the execution of this act; and if the person so to be authorized, or any other person, shall send, or cause or permit to be sent, under any such cover, any letter, paper, or writing, or any inclosure other than what shall relate to the execution of this act, every person so offending shall be dismissed from his office, and shall forfeit and pay the sum of one hundred pounds, one moiety of the said penalty to the use of his Majesty, his heirs and successors, and the other moiety to the use of the person who shall inform or sue for the same, to be sued for and recovered in any of his Majesty's courts of record at Westminster; and if any letter, paper, or writing, or other inclosure, shall be sent under cover to the said commissioners, the same not relating solely and exclusively to the execution of this act, they are hereby strictly required and enjoined to transmit the same forthwith to the secretary of the post office in London, with the covers under which the same shall be sent, in order that the contents thereof may be charged with the full rates of postage.

XV. That whenever any extract from the enrolment of any charter or deed, or from any decree, report, record, or other document whatever, deposited or remaining in any of the offices belonging to or under the control of the courts of chancery or exchequer, or in any public registry, shall be required for the purposes of this act by any order signed by one of the commissioners under this act, the officer or officers having the custody of such enrolment, decree, report, record, or other document, shall furnish an extract of so much only as shall be so required of any

No. IV.
5 & 6 W. 4,
c. 71.

Mortgagees, trustees, &c. not compellable to produce deeds without notice to mortgagors, cestui que trusts, &c.

Persons not compellable to criminate themselves.

Letters to and from commissioners to be free of postage if sent conformably hereto.

Penalty and loss of office for sending letters not relating solely to the business of the act.

In case of letters sent under cover to the commissioners, not relating solely to the business of the act.

Officers having custody of records to furnish extracts if required by a commissioner.

No. IV.
5 & 6 W. 4,
c. 71.

No stamp duty on extracts or copies required by a commissioner.

Act not to extend to universities, public schools, &c. ;

nor to charities chiefly supported by voluntary contributions ;

except as to management and application of rents for twenty years.

Attorney-general's certificate to be evidence of particulars of cases having been duly certified by commissioners.

Chief commissioner to superintend proceedings instituted by attorney general.

For empowering resident ministers and churchwardens to receive rent-charges belonging to charities, where no existing trustees.

such enrolment, decree, report, record, or other document ; and that any such extract, or any copy, which shall be required for the purposes of this act by any order signed by one of the said commissioners, of any such enrolment, decree, report, record, or other document, shall not be subject or liable to the payment of any stamp duty whatever, any law, statute, or usage to the contrary in anywise notwithstanding.

XVI. That this act or any of the provisions therein contained shall not extend or be construed to extend to either of the universities of Oxford or Cambridge, nor to any college or hall within the same, nor to any schools or other endowments of which the said universities, colleges, or halls are trustees, nor to the colleges of Westminster, Eton, or Winchester, nor to the Charter House, nor to the schools of Harrow or Rugby, or any of them, nor to the corporation of the Trinity House of Deptford Strond, nor to any cathedral or collegiate church within England or Wales, nor to any funds applicable to the benefit of any persons of the Jewish persuasion, or the people called quakers, or persons of the Roman catholic persuasion, and which shall be under the superintendence and control of persons of such persuasions respectively.

XVII. Provided also, That this act or any of the provisions therein contained shall not extend or be construed to extend to any institution established, or society, for charitable purposes, wholly or principally maintained by voluntary contributions, and under the superintendence and control of any committee or governors or other person or persons chosen or appointed out of or by voluntary subscribers thereto ; and that the application of any donation or bequest to the general purposes of any such institution, establishment, or society, in aid of such voluntary contributions, shall not be subject to the examination or interference of the commissioners appointed under this act : Provided always, that the management and application of the rents and profits of any lands, tenements, or hereditaments belonging to such institution, establishment, or society for the period of twenty years or upwards before the passing of this act, shall in all such cases be subject to the examination of the said commissioners at their discretion..

XVIII. That in all cases of proceedings instituted or to be instituted by his Majesty's attorney general in pursuance of the said recited act of the fifty-ninth year of the reign of his late Majesty king George the third herein-before secondly mentioned, or of the said recited act of the second year of the reign of his present Majesty, or of this act, the production to the court of a certificate under the hand of his Majesty's attorney general, stating that the particulars of the case in question in writing have been certified to his Majesty's attorney general for the time being, according to the provisions of the said recited acts of the fifty-ninth year of his said late Majesty or of the second year of his present Majesty, or of this act, as the case may be, shall be deemed sufficient evidence that such particulars have been duly certified to his Majesty's attorney general accordingly, to and for all intents and purposes whatsoever.

XIX. That in all cases of proceedings instituted, or to be instituted by his Majesty's attorney general in pursuance of the before-recited acts, it shall and may be lawful for the said chief commissioner and he is hereby directed to superintend all such proceedings, with a view to their prompt and effectual termination.

XX. That whenever it shall appear to the said commissioners to be appointed under the authority of this act that the property belonging to any charity consists only of one or more annuity or rent-charge, annuities or rent-charges, not exceeding in the whole the yearly sum of fifty pounds, and that there are no existing trustees or persons legally qualified to receive and give an effectual discharge for such annuity or rent-charge, annuities or rent-charges, it shall and may be lawful for any five of the said commissioners by writing under their hands, to empower the resident minister and the churchwardens or chapelwardens

for the time being of the parish or place interested in such charity, in case only one parish or place is so interested, but if more than one parish or place is so interested, then the resident minister and the churchwardens or chapelwardens of some one of the parishes or places interested, to receive the said annuity or rent-charge, annuities or rent-charges, or any arrears thereof, and to apply the same according to the purposes of the charitable donations or bequests thereof, in the same manner as the trustees of the said charity would have been bound to do; and the power so to be given to such minister and churchwardens or chapelwardens shall remain in force until trustees of the said charity duly appointed shall appear and claim the administration of the funds thereof, or until trustees of the said charity shall be appointed by the court of chancery or court of exchequer; and all receipts to be given by such minister and churchwardens or chapelwardens shall be effectual discharges to the persons liable to the payment of such annuities or rent-charges for all such sums as in such receipts shall be expressed to have been received in respect thereof; and in case of non-payment of such annuities or rent-charges, or any arrears thereof, it shall and may be lawful for such minister and churchwardens or chapelwardens respectively, during the continuance of the power to be given to them by virtue of the provisions of this act, to use and exercise all such powers and remedies for recovering and compelling payment of the said annuities or rent-charges and the arrears thereof as the trustees of the said charities respectively might or could have done if duly appointed.

No. IV.
5 & 6 W. 4,
c. 71.

XXI. That any action or suit which shall be brought against any commissioner or commissioners to be appointed under the authority of this act, or against any person or persons acting under the authority or by the order of such commissioners, or any one or more of them, for any thing done or acted by him or them under this act, shall be commenced within six calendar months next after the fact committed in respect of which such action or suit shall be brought or commenced, and not afterwards; and the defendant or defendants in every such action or suit may plead the general issue, and give this act and the special matter in evidence at any trial to be had thereupon; and if such action or suit shall be brought or commenced after the time so limited for bringing the same, then the jury shall find a verdict for the defendant or defendants; and in such case, or if the jury shall find a verdict for the defendant or defendants upon the merits, or if the plaintiff or plaintiffs shall become nonsuit, or discontinue his, her, or their action after appearance, or if upon demurrer judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall have treble costs, which he or they shall and may recover in such and the same manner as any defendant can by law in other cases.

General issue.

Treble costs.

XXII. Provided always, That previously to presenting any report the said commissioners shall give directions, in all cases in which they shall think it fit, to the attorney general to file informations in the courts of chancery or exchequer on the matter arising out of such reports, and shall not, nor shall any of the clerks or secretaries under this act, give any information touching any such matters to any person other than the attorney general or the persons employed by the said commissioners previous to the directions so by the said commissioners given to the attorney general.

Previously to presenting reports, commissioners may direct attorney general to file informations.

XXIII. That this act shall continue in force until the first day of March, one thousand eight hundred and thirty-seven.

Continuance of act.

PART II.

CLASS VI.

ACTS FOR CONVEYANCES BY INFANTS, LUNATICS, &c.

[In the provisions of the 1 W. 4, c. 60, with respect to infants, *femes covert*, and lunatics, who are trustees or mortgagees. See *ante*, Part II., Class I.]

[No. I.] 1 W. IV. c. 65.—An Act for consolidating and amending the Laws relating to Property belonging to Infants, *Femes Covert*, Idiots, Lunatics, and Persons of unsound Mind. [23rd July 1830.]

WHEREAS, &c., [Recites the titles of the 9 G. 1, c. 29. 29 G. 2, c. 31.

11 G. 3, c. 20. 11 Anne (I.) c. 3. 43 G. 3, c. 75. 47 G. 3, c. 8, s. 2. 59 G. 3, c. 80. 6 G. 4, c. 74. 9 G. 4, c. 78.] And whereas it is expedient the provisions of the said acts should be consolidated and amended; be it therefore enacted, &c. That the said recited acts of the eleventh year of the reign of queen Anne, the ninth year of the reign of king George the first, the twenty-ninth year of the reign of king George the second, the eleventh, forty-third, forty-seventh, and fifty-ninth years of the reign of king George the third, and the ninth year of the reign of his late Majesty king George the fourth, and also the said recited act of the sixth year of the reign of his present Majesty, so far as the said last-mentioned act relates to stocks, funds, annuities, and securities belonging beneficially to persons being infants, idiots, lunatics, or of unsound mind shall be and the same are hereby repealed (except as to such proceedings under the same as shall have been commenced before the passing of this act, and which may be proceeded in according to the provisions of the said recited acts respectively, or according to the provisions of this act, as shall be thought expedient): Provided always, That the several acts repealed by the said last-recited act shall not be revived.

Recited acts of 11 Anne, 9 G. 1. 29 G. 2. 11. 43, 47, and 59 G. 3. 9 G. 4. and so much of 6 G. 4, as relates to funds belonging to infants, &c. repealed.

Rules for the interpretation of this act.

II. And inasmuch as, in order to avoid unnecessary repetition, certain words are used in this act as describing subjects some of which, according to their usual sense, such words would not embrace: for the understanding of the sense attached to them in this act, be it further enacted, That the provisions of this act shall extend and be understood to extend to and include the several other estates, persons, matters, and things herein-after mentioned; (that is to say,) those relating to land, to any manor, messuage, tenement, hereditament, or real property of whatsoever tenure, and to property of every description transferrable otherwise than in books kept by any company or society, or any share thereof or charge thereon, or estate or interest therein; those relating to stock, to any fund, annuity, or security transferrable in books kept by any company or society, or to any money payable for the discharge or redemption thereof, or any share or interest therein; those relating to dividends, to interest or other annual produce; those relating to the bank of England, to the East India company, South Sea company, or any other company or society established or to be established; those relating to a conveyance, to any release, surrender, assignment, or other assurance, including all acts, deeds, and things necessary for making

and perfecting the same; those relating to a transfer, to any assignment, payment, or other disposition; and those relating to a lunatic, to any idiot or person of unsound mind or incapable of managing his affairs; unless there be something in the subject or context repugnant to such construction; and whenever this act, in describing or referring to any person, or any land, stock, conveyance, lease, recovery, matter, or thing, uses the word importing the singular number or the masculine gender only, the same shall be understood to include and shall be applied to several persons as well as one person, and females as well as males, and bodies corporate as well as individuals, and several lands, stocks, conveyances, leases, recoveries, matters, or things, as well as one land, stock, conveyance lease, recovery, matter, or thing respectively, unless there be something in the subject or context repugnant to such construction.

No. I.
1 W. 4, c. 65.

III. That from and after the passing of this act, where any person being under the age of twenty-one years, or being a feme covert or lunatic, is or shall be entitled by descent, or surrender to the use of a last will, or otherwise, to be admitted tenant of any copyhold lands, such person, in his or her own proper person, or being a feme covert by her attorney, or being an infant by his guardian or attorney, as the case may require, or being a lunatic by the committee of his estate, shall come to and appear at one of the three next courts which shall be kept (for the keeping whereof the usual notice shall be given) for the manor whereof such land shall be parcel, and shall there offer himself or herself to the lord or his steward to be admitted tenant to the said land; to make which appearance and to take which admittance in behalf of such infant or lunatic or feme covert, such guardian, committee, or attorney shall be and is hereby respectively authorized and required.

Infants, femes covert, and lunatics may be admitted to copyhold estates by their guardian, committee, or attorney.

IV. That it shall be lawful for any feme covert, and for any infant who shall have no guardian, and she and he is hereby empowered, by writing under her or his hand and seal respectively, to appoint an attorney or attorneys on her or his behalf, for the purpose of appearing and taking such admittance as aforesaid.

Femes covert, infants, &c. may appoint attorneys for that purpose.

V. That in default of such appearance of any infant, feme covert, or lunatic, in his or her own person, or by his or her guardian, committee, or attorney in that behalf, and of acceptance of such admittance as aforesaid, it shall be lawful for the lord of every such manor, or his steward, after such three several courts have been duly holden for such manor, and proclamations in such several courts been regularly made, to appoint, at any subsequent court to be holden for such manor, any fit person to be attorney for every such infant, feme covert, or lunatic, for that purpose only, and by such attorney to admit every such infant, feme covert, or lunatic to the said land, according to such estate as such infant, feme covert, or lunatic shall be legally entitled to therein, and upon every such admittance to impose and set such fine as might have been legally imposed and set if such infant had been of full age, or if such feme covert had been sole and unmarried, and if such lunatic had been of sane mind.

In default of appearance, the lord may appoint an attorney.

VI. That upon every such admittance of any infant, feme covert, or lunatic as aforesaid, the fine imposed and set thereupon shall and may be demanded by the bailiff or agent of the lord of such manor, by a note in writing, signed by the lord of such manor or by his steward, to be left with the guardian of such infant, or such infant if he have no guardian, or with such feme covert or her husband, or with the committee of the estate of such lunatic, or with the tenant or occupier of the land to which such infant, feme covert, or lunatic shall have been admitted as aforesaid; and if the fine so imposed and set be not paid or tendered to such lord or his steward within three months after such demand made, then it shall be lawful for the lord of such manor to enter into and upon the copyhold land to which any such infant, feme covert, or lunatic shall be so admitted, and to hold and enjoy the same,

Fines in what manner de mandable.

If not paid, &c. the lord may enter and receive the profits of the copyhold till he is satisfied, &c.

No. I.

1 W. 4, c. 65.

The lord to account yearly ;

and to deliver up possession on satisfaction of the fines.

Guardians or husbands, or committees paying fines, may reimburse themselves out of the rents of the copyhold.

No forfeiture to be incurred by infant, &c. for not appearing, or refusing to pay fines.

not warranted by custom, may be controverted.

and to receive the rents, issues, and profits thereof, but without liberty to fell any timber standing thereon, for so long time only and until by such rents, issues, and profits such lord shall be fully paid and satisfied such fine, together with all reasonable costs and charges which such lord shall have been put unto in levying and raising the same, and in obtaining the possession of such copyhold land, although such infant, feme covert, or lunatic shall happen to die before such fine and fines, and the costs and charges aforesaid, shall be raised and collected ; of all which rents, issues, and profits so to be received by such lord of such manor, or his steward, bailiff, or servant, upon the occasion aforesaid, such lord shall yearly and every year, upon demand to be made by the person who shall be entitled to the surplus of the said rents and profits, over and above what will pay and satisfy such fine and costs and charges, or by the person who shall be then entitled to such copyhold land, give and render a just and true account, and shall pay the same surplus, if any, to such person as shall be entitled to the same.

VII. That as soon as such fine, and the costs, charges, and expences aforesaid, shall be fully paid and satisfied, or if, after such seizure and entry of and upon such copyhold land for the purposes aforesaid, such fine, and the costs and charges aforesaid, shall be lawfully tendered and offered to be paid and satisfied to the lord of such manor, then and in any of the said cases it shall be lawful for such infant, feme covert, lunatic, or other person entitled thereto, or the guardian of such infant, the husband of such feme covert, or the committee of such lunatic, to enter upon and take possession of and hold the said copyhold land according to the estate or interest such infant, feme covert, or lunatic shall be lawfully entitled to therein, and the lord of such manor shall and is hereby required in any of the said cases to deliver possession thereof accordingly ; and if such lord, after such fine, and the costs and charges aforesaid, shall be fully paid and satisfied, or after the same shall have been tendered or offered to be paid as aforesaid, shall refuse to deliver the possession of the said copyhold land as aforesaid, he or they shall be liable to and shall make satisfaction to the person or persons so kept out of possession, for all the damages that he or she shall thereby sustain, and all the costs and charges that he or she shall be put unto for the recovery thereof.

VIII. That where any infant, feme covert, or lunatic shall be admitted to any copyhold land, if the guardian of such infant, or husband of such feme covert, or committee of such lunatic, shall pay to the lord of any manor the fine legally imposed and set upon such admittance, and the costs and charges which such lord of such manor shall have been put unto as aforesaid, then it shall be lawful for every guardian of such infant, or husband of such feme covert, or committee of such lunatic, his executors and administrators, to enter into and to hold and enjoy the said land to which such infant, feme covert, or lunatic shall have been so admitted, and receive and take the rents, issues, and profits thereof to his and their own use, until thereby such guardian of such infant, or husband of such feme covert, or committee of such lunatic, his executors and administrators, shall be fully satisfied and paid all and every such sum and sums of money as he shall respectively pay and disburse upon the account aforesaid, notwithstanding the death of such infants, femes covert, or lunatic shall happen before such sum or sums of money so expended shall or may be so raised and reimbursed.

IX. Provided always, That from and after the passing of this act no infant, feme covert, or lunatic shall forfeit any copyhold land for his or her neglect or refusal to come to any court to be kept for any manor whereof such land is parcel, and to be admitted thereto, nor for the omission, denial, or refusal of any such infant, feme covert, or lunatic to pay any fine imposed or set upon his or her admittance to any such land.

X. Provided nevertheless, That if the fine imposed in any of the cases herein-before mentioned shall not be warranted by the custom of

the manor, or shall be unlawful, then such infant, feme covert, or lunatic shall be at liberty to controvert the legality of such fine, in such manner as he or she might have done if this act had not been made.

XI. That it shall be lawful for any person, not being under coverture, and for every feme covert, (such feme covert being solely and secretly examined by the lord of the manor whereof the land of which a common recovery is proposed to be suffered shall be holden by copy of court roll, or in ancient demesne, or otherwise, or by his steward, or by the deputy of such steward,) to appoint any person to be his or her attorney, for the purpose of surrendering the land of which a common recovery shall be proposed to be suffered, to the use of any person, to make him tenant to the plaintiff, and also to appoint any other person to appear for the person so appointing as vouchee, and to enter into the usual warranty, and to do all other lawful and necessary acts for the suffering and perfecting of such common recovery respectively, and to direct the demandant in such common recovery respectively to surrender the tenements so recovered, when or after such recovery shall be suffered and perfected, to such uses as shall be declared in the instrument by which such attorney shall be respectively appointed; and that the surrender and common recovery which shall be had, acknowledged, and suffered as aforesaid shall have the like effect, but no other, as such surrender and common recovery would have had if the party who shall acknowledge such surrender and suffer such common recovery by attorney, and give such directions as aforesaid, had appeared in court in his or her person, and acknowledged the said surrender, and suffered the same recovery, and had joined in the surrender to be made by such defendant.

XII. That in all cases where any person, being under the age of twenty-one years, or a feme covert, is or shall become entitled to any lease or leases made or granted or to be made or granted for the life or lives of one or more person or persons, or for any term of years, either absolute or determinable upon the death of one or more person or persons, or otherwise, it shall be lawful for such person under the age of twenty-one years, or for his or her guardian or other person on his behalf, and for such feme covert, or any person on her behalf, to apply to the court of chancery in England, the courts of equity of the counties palatine of Chester, Lancaster, and Durham, or the courts of great session of the principality of Wales respectively, as to land within their respective jurisdiction, by petition or motion in a summary way; and by the order and direction of the said courts respectively such infant or feme covert, or his guardian, or any person appointed in the place of such infant or feme covert by the said courts respectively, shall and may be enabled from time to time, by deed or deeds, to surrender such lease or leases, and accept and take, in the place and for the benefit of such person under the age of twenty-one years, or feme covert, one or more new lease or leases of the premises comprised in such lease surrendered by virtue of this act, for and during such number of lives, or for such term or terms of years determinable upon such number of lives, or for such term or terms of years absolute, as was or were mentioned or contained in the lease or leases so surrendered at the making thereof respectively, or otherwise as the said courts shall respectively direct.

XIII. That in all cases where any person, being lunatic, shall become entitled to any lease or leases made or granted or to be made or granted for the life or lives of one or more person or persons, or for any term of years, either absolute or determinable upon the death of one or more person or persons, or otherwise, it shall be lawful for the committee of the estate of such person to apply to the lord chancellor of Great Britain, being intrusted by virtue of the king's sign manual with the care and commitment of the custody of the persons and estates of persons found idiot, lunatic, or of unsound mind, by petition or motion in a summary way; and by the order and direction of the said lord chancellor, intrusted as aforesaid, such committee shall and may be enabled from time to time, by deed or deeds, in the place of such lunatic, to sur-

No. I.

1 W. 4, c. 65.

Persons may appoint attorneys, &c. for surrendering lands of which common recoveries are intended to be suffered, &c.

Guardians, of minors, &c. in order to the surrender and renewal of leases, may apply to the court of chancery, &c., and by order may surrender such leases, and renew the same, &c.

Committees of lunatics may in like manner surrender leases, and renew the same, &c.

No. I.
1 W. 4, c. 65.

Charges attending renewal to be charged on the estates as the court shall direct.

New leases shall be to the same uses.

Infants empowered to grant renewals of leases.

Court of chancery may authorize leases to be made of lands belonging to infants when it is to the benefit of the estate.

render such lease or leases, and accept and take, in the name and for the benefit of such lunatic, one or more new lease or leases of the premises comprised in such lease or leases surrendered by virtue of this act, for and during such number of lives, or for such term or terms of years, absolute or determinable as aforesaid, as was or were mentioned or contained in the lease or leases so surrendered at the making thereof respectively, or otherwise, as the said lord chancellor, intrusted as aforesaid, shall direct.

XIV. That every sum of money and other consideration paid by any guardian, trustee, committee, or other person as a fine, premium, or income, or in the nature of a fine, premium, or income, for the renewal of any such lease, and all reasonable charges incident thereto, shall be paid out of the estate or effects of the infant or lunatic for whose benefit the lease shall be renewed, or shall be a charge upon the leasehold premises, together with interest for the same, as the said courts and lord chancellor, intrusted as aforesaid, respectively shall direct and determine; and as to leases to be made upon surrenders by females covert, unless the fine or consideration of such lease and the reasonable charges shall be otherwise paid or secured, the same, together with interest, shall be a charge upon such leasehold premises, for the benefit of the person who shall advance the same.

XV. That every lease to be renewed as aforesaid shall operate and be to the same uses, and be liable to the same trusts, charges, incumbrances, dispositions, devices, and conditions, as the lease to be from time to time surrendered as aforesaid was or would have been subject to in case such surrender had not been made.

XVI. That where any person, being under the age of twenty-one years, or a feme covert, might, in pursuance of any covenant or agreement, if not under disability, be compelled to renew any lease made or to be made for the life or lives of one or more person or persons, or for any term or number of years absolute or determinable on the death of one or more person or persons, it shall be lawful to and for such infant, or his guardian in the name of such infant, or such feme covert, by the direction of the court of chancery, to be signified by an order to be made in a summary way upon the petition of such infant or his guardian, or of such feme covert, or of any person entitled to such renewal, from time to time to accept of a surrender of such lease, and to make and execute a new lease of the premises comprised in such lease, for and during such number of lives, or for such term or terms determinable upon such number of lives, or for such term or terms of years absolute, as was or were mentioned in the lease so surrendered at the making thereof, or otherwise, as the court by such order shall direct.

XVII. That where any person, being an infant under the age of twenty-one years, is or shall be seised or possessed of or entitled to any land in fee or in tail, (1) or to any leasehold land for an absolute interest, and it shall appear to the court of chancery to be for the benefit of such person that a lease or under-lease should be made of such estates for terms of years, for encouraging the erection of buildings thereon, or for repairing buildings actually being thereon, or the working of mines, or otherwise improving the same, or for farming or other purposes, it shall be lawful for such infant, or his guardian in the name of such infant, by the direction of the court of chancery, to be signified by an order to be made in a summary way upon the petition of such infant or his guardian, to make such lease of the land of such persons respectively, or any part thereof, according to his or her interest therein respectively, and to the nature of the tenure of such estates respectively, for such

(1) An estate of which H. E. died seised in fee descended to his five infant sisters. The father and mother being still living, and the estates of the sisters consequently liable to be divested by the birth of a son, or affected by the birth of a daughter: it was held that the infants were not seised or entitled within the above section. In *re Evans*, 2 *Mylne & Keen*, 318.

term or terms of years, and subject to such rents and covenants as the said court of chancery shall direct; but in no such case shall any fine or premium be taken, and in every such case the best rent that can be obtained, regard being had to the nature of the lease, shall be reserved upon such lease; and the leases, and covenants and provisions therein, shall be settled and approved of by a master of the said court, and a counterpart of every such lease shall be executed by the lessee or lessees therein to be named, and such counterparts shall be deposited for safe custody in the master's office until such infant shall attain twenty-one, but with liberty to proper parties to have the use thereof, if required, in the meantime, for the purpose of enforcing any of the covenants therein contained; provided that no lease be made of the capital mansion house and the park and grounds respectively held therewith for any period exceeding the minority of any such infant.

No. I.
1 W. 5, c. 65.

XVIII. That where any person who, in pursuance of any covenant or agreement in writing, might, if within the jurisdiction and amenable to the process of the court of chancery, be compelled to execute any lease by way of renewal, shall not be within the jurisdiction or not amenable to the process of the said court, it shall be lawful to and for the said court of chancery, by an order to be made upon the petition of any person or any of the persons entitled to such renewal, (whether such person be or be not under any disability,) to direct such person as the said court shall think proper to appoint for that purpose, to accept a surrender of the subsisting lease, and make and execute a new lease in the name of the person who ought to have renewed the same; and such deed, executed by the person to be appointed as aforesaid, shall be as valid as if the person in whose name the same shall be made had executed the same, and had been alive and not under any disability; but in every such case it shall be in the discretion of the said court of chancery, if under the circumstances it shall seem requisite, to direct a bill to be filed to establish the right of the party seeking the renewal, and not to make the order for such new lease unless by the decree to be made in such cause, or until after such decree shall have been made.

If persons bound to renew are out of the jurisdiction of the court, the renewals may be made by a person appointed by the court of chancery, in the name of the person who ought to have renewed.

XIX. That where any person, being lunatic, is or shall be entitled or has a right, or in pursuance of any covenant or agreement might, if not under disability, be compelled to renew any lease made or to be made for the life or lives of one or more person or persons, or for any term or number of years absolute or determinable on the death of one or more person or persons, or otherwise, it shall be lawful to and for the committee of the estate of such lunatic, in the name of such lunatic, by the direction of the lord chancellor, intrusted as aforesaid, to be signified by an order to be made in a summary way upon the petition of such committee, or of any person entitled to such renewal, from time to time to accept of a surrender of such lease, and to make and execute to any person a new lease of the premises comprised in such lease to be surrendered by virtue of this act, for and during such number of lives, or for such term or terms of years determinable upon such number of lives, or for such term or terms of years absolute, as were mentioned or contained in such lease so surrendered at the making thereof, or otherwise, as the lord chancellor, intrusted as aforesaid, by such order shall direct; and this provision shall extend as well to cases where the lunatic shall not be compellable to renew; but it shall be for his benefit to do so as to cases where a renewal might be effectually enforced against the lunatic if of sound mind.

Committees of lunatics, by the direction of the lord chancellor, may accept of surrenders, and make new leases.

XX. Provided always, That no renewed lease shall be executed by virtue of this act, in pursuance of any covenant or agreement, unless before renewal the fine (if any), or such other sum or sums of money (if any), as ought to be paid on such renewal, and such things (if any) as ought to be performed in pursuance of such covenant or agreement by the lessee or tenant, be first paid and performed; and counterparts of every renewed lease to be executed by virtue of this act shall be duly executed by the lessee.

Fines to be paid before renewal, and counterparts are executed.

No. I.
1 W. 4, c. 65.

Premiums low
to be paid.

On death of
lunatic, money
arising by such
fines to be con-
sidered real
estate.

The Irish Act,
11 Anne, c. 3,
continued un-
altered.

XXI. That all fines, premiums, and sums of money, which shall be had, received, or paid for or on account of the renewal of any lease, after a deduction of all necessary incidental charges and expences, shall be paid, if such renewal shall be made by or in the name of an infant, to his guardian, and be applied and disposed of for the benefit of such infant, in such manner as the said court shall direct; if such renewal shall be made by a feme covert, to such person or in such manner as the court shall direct for her benefit; if such renewal shall be made in the name of any person out of jurisdiction or not amenable as aforesaid, to such person or in such manner, or into the court of chancery to such account, and to be applied and disposed of as the said court shall direct; and if such renewal should be made in the name of a lunatic, to the committee of the estate of such lunatic, and be applied and disposed of for the benefit of such lunatic, in such manner as the lord chancellor, intrusted as aforesaid, shall direct; but upon the death of such lunatic, all such sum and sums of money as shall arise by such fines or premiums, or so much thereof as shall remain unapplied for the benefit of such lunatic at his death, shall, as between the representatives of the real and personal estates of such lunatic, be considered as real estate, unless such lunatic shall be tenant for life only, and then the same shall be considered as personal estate.

XXII. And whereas by the said act passed in the parliament of Ireland in the eleventh year of the reign of Queen Anne, after reciting that several persons had theretofore made and thereafter might make leases for one or more life or lives, of several lands, tenements, and hereditaments in the said then kingdom of Ireland, with covenants and agreements in such leases for renewing the same from time to time on the tender and payment of some fine, certain on the death of any life or lives in such lease or leases mentioned, by adding such one or more life or lives, on failure of the life or lives in being within the respective times in such agreements and covenants mentioned, as the several lessee or lessees in such lease or leases should nominate; and also reciting, that through one pretence or other, on the fall or failure of any life or lives in being, the lessee or lessees were greatly delayed before he or they could obtain any renewal according to the covenants and agreements in their leases, to their very great discouragement; for remedy whereof it was enacted, that if it should so happen that any person or persons who, in pursuance of such agreements for renewal in such leases contained or to be contained, ought to make such new lease or leases as had been or should be agreed to be made, should be under any disability so to do, by reason of infancy, coverture, or *non compos mentis*, that then and in every such case, (that is to say,) in case of disability by reason of infancy or being under age, by the direction of the high court of chancery or the court of exchequer, signified by an order made upon hearing all parties concerned on the petition of such lessee or lessees, it should and might be lawful to and for the guardian or guardians of such infant or person under age, upon such lessee or lessees tendering the fine or fines agreed on in such lease, and performing all such matters and things as by the said covenants and agreements ought to be performed on his or their part and behalf previous to such renewal, in such manner as should by such order be directed, to renew such lease or leases by adding such new life or lives as should be named by the said lessee or lessees according to the said covenants and agreements, and such guardian or guardians were thereby required to renew such lease or leases by putting in such new life or lives as should be so named unto them as aforesaid, while the infant or minor of such guardian or guardians should be under such disability of infancy or under age; and it was further enacted, That in all cases where the person or persons who by covenant or agreement were obliged to make such renewals were or should be disabled to renew by reason of being under coverture, beyond the seas, or *non compos mentis*, it should and might be lawful to and for the lord chancellor or commissioner or com-

missioners of the great seal of the said then kingdom of Ireland for the time being, upon petition or complaint made to him or them in the high court of chancery, upon payment of the fine and such other sum or sums of money as ought to be paid upon such renewal for the use of the person or persons entitled to the same, and upon the lessee or lessees doing and performing all and every such matters and things as by the said covenants or agreements in the said lease or leases ought to be done or performed by him or them previous to such renewal, to order or appoint such renewal or renewals to be made by one of the masters of the said court of chancery, to be nominated and appointed by the said lord chancellor or commissioner or commissioners of the great seal for the time being; and such master so nominated and appointed, and also such guardian and guardians as aforesaid, should make and execute such deed of renewal in the name of the person or persons who ought to have renewed the same; which deed or deeds of renewal so made and executed by the said guardian or guardians, master or masters, counterparts thereof being duly perfected by the lessee or lessees for the use and benefit of the person or persons having the reversion and inheritance of such lands, tenements, or hereditaments comprised in such deed or deeds, should be as good and effectual in law and equity, to all intents and purposes, as if the person or persons under age had been of full age and had executed the same, or as if the other person or persons under such disability had not been so disabled and had executed the same; provided such person or persons under age or under such disability as aforesaid were at the time of the renewal of such lease compellable in law or equity to make such renewal: And whereas it is expedient that the provisions of the said recited act, which have been so long in force in Ireland, should remain unaltered; be it therefore further enacted, That the clauses and provisions contained in the said act shall be and continue in force in the same manner to all intents and purposes as if the said clauses and provisions, and every part thereof, had been repeated and re-enacted in this act; and none of the other provisions in this act contained for authorizing any surrenders to be accepted, or any new lease to be made or executed, for or on the behalf of any person who, in pursuance of any covenant or agreement for renewal in any lease contained or to be contained, ought to make such new lease or leases, shall extend or be construed to land in Ireland.

XXIII. That where any person, being lunatic, is or shall be seised or possessed of any land, either for life or for some other estate, with power of granting leases and taking fines, reserving small rents on such leases, for one, two, or three lives in possession or reversion, or for some number of years determinable upon lives, or for any term of years absolutely, such power of leasing which is or shall be vested in such person, being lunatic and having a limited estate only, shall and may be executed by the committee of the estate of such person, under the direction and order of the lord chancellor, intrusted as aforesaid.

XXIV. That where any person, being lunatic, is or shall be seised or possessed of or entitled to any land in fee or in tail, or to any leasehold land for an absolute interest, and it shall appear to the lord chancellor, intrusted as aforesaid, to be for the benefit of such person that a lease or under-lease should be made of such estates for terms of years, for encouraging the erection of buildings therein, or for repairing buildings actually being thereon, or otherwise improving the same, or for farming or other purposes, it shall be lawful for the lord chancellor, intrusted as aforesaid, to order and direct the committee of the estate of such lunatic to make such lease of the land of such persons respectively, or any part thereof, according to his or her interest therein respectively, and to the nature of the tenure of such estates respectively, for such term or terms of years, and subject to such rents and covenants, as the lord chancellor, intrusted as aforesaid, shall direct.

XXV. And whereas by an act passed in the first year of the reign

The power of leasing lands, &c. of lunatics having a limited estate may be executed by the committee.

Where lunatics are seised of estates in fee or in tail, or an absolute interest in leasehold estates, the chancellor may direct leases to be made.

So much of 1 G. 1, c. 10,

No. I.
1 W. 4, c. 65.

a. 9, as enact-
ments of guar-
dians shall bind
infants repeal-
ed.

Such agree-
ments may be
made by guar-
dians, with the
approbation of
the court, and
by committees
with the appro-
bation of the
lord chancel-
lor.

Committee of
lunatics, by
direction of the
lord chancel-
lor, may con-
vey land in
performance of
contracts.

The lord chan-
cellor may or-
der the estates
of lunatics to
be sold or
charged by
mortgage for
raising money
for the payment
of debts, &c.

of King George the First, intituled *An Act for making more effectual her late Majesty's gracious Intentions for augmenting the Maintenance of the Poor Clergy*, it was enacted, that the agreements of guardians for and on behalf of infants or idiots under their guardianship should be as good and effectual to all intents and purposes as if the said infants or idiots had been of full age and of sound mind, and had themselves entered into such agreements: And whereas it is desirable that the said powers should be exercised under proper control, and that the same should be extended to all persons against whom a commission of lunacy shall have issued; be it further enacted, That so much of the said act of the first year of the reign of king George the first, as is herein-before recited, shall be and the same is hereby repealed,

XXVI. That the guardian of any infant, with the approbation of the court of chancery, to be signified by an order to be made on the petition of such guardian in a summary way, may enter into any agreement for or on behalf of such infant which such guardian might have entered into by virtue of the said last-recited act, if the same had not been repealed; and the committee of the estate of any lunatic, with the approbation of the lord chancellor, intrusted as aforesaid, to be signified by an order to be made in the petition of such committee in a summary way, may enter into any agreement for or on the behalf of such lunatic which the guardian of an infant might have entered into for or on the behalf of such infant by virtue of the said last-recited act, if the same had not been repealed.

XXVII. That when any person who shall have contracted to sell, mortgage, let, divide, exchange, or otherwise dispose of any land, shall afterwards become lunatic, and a specific performance of such contract, either wholly or so far as the same shall remain to be performed, shall have been decreed by the court of chancery, either before or after such lunacy, it shall be lawful for the committee of the estate of such lunatic, in the place of such lunatic, by the direction of the lord chancellor, intrusted as aforesaid, to be signified by an order to be made on the petition of the plaintiff or any of the plaintiffs in such suit, to convey such land, in pursuance of such decree, to such person and in such manner as the said lord chancellor, intrusted as aforesaid, shall direct; and the purchase money, or so much thereof as remains unpaid, shall be paid to the committee of such lunatic.

XXVIII. That it shall be lawful for the lord chancellor, intrusted as aforesaid, to order any land, of or to which any person being lunatic shall be seised or possessed or entitled, to be sold, or charged and incumbered by way of mortgage, or otherwise disposed of, as shall be deemed most expedient for the purpose of raising money for payment of the debts or engagements of such lunatic, the discharge of any incumbrances on his estates, the costs of applying for and obtaining the commission of lunacy and in opposition thereto, and all proceedings under the said commission, and the costs of such sales, mortgages, charges, and incumbrances, and other dispositions, or for any of such purposes as aforesaid, as such lord chancellor, intrusted as aforesaid, shall respectively direct; and that the monies arising from any such sale, mortgage, charge, incumbrance, or other disposition, may be paid, laid out, and applied in payment of the debts and engagements of such lunatic, the discharge of any incumbrances on his estates, the costs of applying for and obtaining the commission of lunacy and in opposition thereto, and all proceedings under the same commission, or incurred under the order of such lord chancellor, intrusted as aforesaid, and the costs of such sales, mortgages, charges, and incumbrances, and other dispositions, in such manner as the said lord chancellor, intrusted as aforesaid, shall direct; and to direct the committee of the estate of such person to execute, in the place of such person respectively, conveyances of the estates so to be sold, mortgaged, incumbered, or disposed of, and to do all such acts as shall be necessary to effectuate the same, in such manner as such lord chancellor, intrusted as aforesaid, shall direct.

XXIX. Provided always, That on any sale, mortgage, charge, incumbrance, or other disposition which shall be made in pursuance of this act, the person whose estate shall be sold, mortgaged, charged, incumbered, or otherwise disposed of, and his or her heirs, next of kin, devisees, legatees, executors, administrators, and assigns, shall have such and the like interest in the surplus which shall remain, after answering the purposes aforesaid, of the money raised by such sale, mortgage, charge, incumbrance, or other disposition, as he, she, or they would have had in the estate by the sale, mortgage, charge, incumbrance, or other disposition of which such monies shall be raised, if no such sale, mortgage, charge, incumbrance, or other disposition had been made; and such monies shall be of the same nature and character as the estate so sold, mortgaged, charged, incumbered, or disposed of; and it shall be lawful for the said lord chancellor, intrusted as aforesaid, to make such orders, and to direct such acts and deeds to be done and executed, as shall be necessary for carrying the aforesaid objects into effect, and for the due application of such surplus monies.

No. I.
1 W. 4, c. 65.
Surplus of monies to be of the same nature as the estate.

XXX. Provided nevertheless, That nothing in this act contained shall extend to subject any part of the estates of any person, being lunatic, to the debts or demands of his creditors, otherwise than as the same are now subject and liable by due course of law, but only to authorize the lord chancellor, intrusted as aforesaid, to make order in such cases as are herein-before mentioned, when the same shall be deemed just and reasonable, or for the benefit or advantage of such lunatic.

Act shall not subject estates of lunatics to debts otherwise than they are now subject.

XXXI. That every surrender and lease, agreement, conveyance, mortgage, or other disposition respectively, granted and accepted, executed and made, by virtue of this act, shall be and be deemed as valid and legal to all intents and purposes as if the person by whom, or in whose place, or on whose behalf the same respectively shall be granted or accepted, executed and made, had been of full age, unmarried, or of sane mind, and had granted, accepted, made, and executed the same; and every such surrender and lease respectively made and accepted by or on the behalf of a feme covert shall be valid, without any fine being levied by her.

Surrender and leases deemed valid.

XXXII. That it shall be lawful for the court of chancery, by an order to be made on the petition of the guardian of any infant in whose name any stock shall be standing, or any sum of money, by virtue of any act for paying off any stock, and who shall be beneficially entitled thereto, or if there shall be no guardian, by an order to be made in any cause depending in the said court, to direct all or any part of the dividends due or to become due in respect of such stocks, or any such sum of money, to be paid to any guardian of such infant, or to any other person, according to the discretion of such court, for the maintenance and education or otherwise for the benefit of such infant, such guardian or other person to whom such payment shall be directed to be made being named in the order directing such payment; and the receipt of such guardian or other person for such dividends or sum of money, or any part thereof, shall be as effectual as if such infant had attained the age of twenty-one years, and had signed and given the same.

Court of chancery or exchequer may order dividends of stock belonging to infants to be applied for maintenance.

XXXIII. That where any stock shall be standing in the name of or shall be vested in any person being lunatic, who shall be beneficially entitled thereto, or shall be standing in the name of or vested in any person being committee of the estate of a person found lunatic, in trust for or as part of his property, and such committee shall have died intestate or shall himself become lunatic, or shall be out of the jurisdiction of or not amenable to the process of the court of chancery, or it shall be uncertain whether such committee be living or dead, or such committee shall neglect or refuse to transfer such stock, and to receive and pay over the dividends thereof to a new committee, or as he shall direct, for the space of fourteen days next after a request in writing for that purpose shall have been made by any new committee, then and in

Stock belonging to lunatics may be ordered by the lord chancellor to be transferred.

No. I.
1 W. 4, c. 65.

every or any such case it shall be lawful for the lord chancellor, intrusted as aforesaid, upon the petition of the committee of the estates of the person being lunatic, or of the person reported by the master to whom the matter is referred as a proper person to be such committee, although such report shall not have been confirmed, to direct such person as such lord chancellor shall think proper to appoint for that purpose to transfer such stock to or into the name of any new committee or in the name of the accountant general of the said court, or otherwise, and also to receive and pay over the dividends thereof, or such sum or sums of money, in such manner as such lord chancellor shall think proper; and such transfers and payments shall be valid and effectual to all intents and purposes whatsoever.

Where stock shall be standing in the names of lunatics residing out of England, the lord chancellor may direct the transfer.

Costs may be directed to be paid.

XXXIV. That where any stock shall be standing in the name of or vested in any person residing out of England, it shall be lawful for the lord chancellor, intrusted as aforesaid, upon petition, and proof being made to his or their satisfaction that such person has been declared lunatic, and that his personal estate has been vested in a curator or other person appointed for the management thereof, according to the laws of the place where such persons shall reside, to direct any person whom such lord chancellor shall think proper to appoint for that purpose to transfer such stock, or any part or parts thereof, into the name of any such curator or other such person as aforesaid, or otherwise, and also to receive and pay over the dividends thereof, as such lord chancellor shall think fit; and that such transfers and payments shall be valid and effectual to all intents and purposes whatsoever.

XXXV. That the court of chancery or lord chancellor, intrusted as aforesaid, may order the costs and expences of and relating to the petitions, orders, directions, conveyances, and transfers to be made in pursuance of this act, or any of them, to be paid and raised out of or from the lands or stock or the rents or dividends in respect of which the same respectively shall be made, in such manner as the said court or lord chancellor shall think proper.

Powers given to the court of chancery in England; which may be exercised by the court of exchequer.

XXXVI. That the powers and authorities given by this act to the court of chancery in England shall extend to all land and stock within any of the dominions, plantations, and colonies belonging to his Majesty, except Scotland.

XXXVII. That the powers and authorities given by this act to the court of chancery shall and may be exercised in like manner by, and are hereby given to, the court of exchequer.

Powers given to courts may be exercised in England and Ireland.

XXXVIII. That the powers and authorities given by this act to the courts of chancery and exchequer in England shall and may be exercised in like manner, and are hereby given to the courts of chancery and exchequer in Ireland, with respect to land and stock in Ireland.

Powers given to the lord chancellor of Great Britain;

XXXIX. That the powers and authorities given by this act to the lord chancellor of Great Britain, intrusted as aforesaid, shall extend to all land and stock wheresoever, within any of the dominions, plantations, and colonies belonging to his Majesty (except Scotland and Ireland).

which may be exercised by lord chancellor of Ireland.

XL. That the powers and authorities given by this act to the lord chancellor of Great Britain, intrusted as aforesaid, shall and may be exercised in like manner by, and are hereby given to, the lord chancellor of Ireland, intrusted as aforesaid, with respect to all land and stock in Ireland, but not further or otherwise.

Inquisitions on commissions under the great seal of Great Britain to be transmitted and entered of record in Ireland, and acted on there, and vice versa.

XLI. And whereas it is desirable that in some cases inquisitions taken in England on a commission in the nature of a writ *de lunatico inquirendo*, and writs of supersedeas of any such commission, should be acted upon in Ireland in the same manner as the same may be acted upon in England, and for that purpose shall be placed on record in Ireland; and that inquisitions on a like commission executed in Ireland, and writs of supersedeas of any such commission, shall be acted on in England, and for that purpose shall be placed on record there; Be it

therefore enacted, That in all cases where any person has been or shall be found lunatic or of unsound mind, and incapable of managing his or her affairs, by any inquisition on a commission in the nature of a writ *de lunatico inquirendo* under the great seal of Great Britain, it shall be lawful for the proper officer, by order of the lord chancellor of Great Britain, intrusted as aforesaid, to transmit a transcript of the record of such inquisition to the chancery of Ireland, and such transcript shall thereupon be entered of record and be as of record there; and in case a writ of supersedeas of any such commission shall issue, the issue of such writ shall be certified and transmitted and recorded in like manner, and the copies of the record of any such inquisition or supersedeas so transmitted and entered as of record in the chancery of Ireland shall, if the lord chancellor of Ireland, intrusted as aforesaid, shall see fit, and so long only as he or they shall so see fit, be acted upon by him or them respectively, and be of the same force and validity and have the same effect to all intents and purposes in Ireland, as if such inquisition had been taken on a commission under the great seal of Ireland, and such writ of supersedeas had been issued under the great seal of Ireland; and that in all cases where any person has been or shall be found lunatic or of unsound mind, and incapable of managing his or her affairs, by any inquisition on a commission in the nature of a writ *de lunatico inquirendo* under the great seal of Ireland, it shall be lawful for the proper officer, by order of the lord chancellor of Ireland, intrusted as aforesaid, to transmit a transcript thereof in like manner to the chancery of England, and such transcript shall thereupon be entered as of record there; and in case a writ of supersedeas of any such commission shall issue, a transcript thereof shall be certified and transmitted to the chancery of England, and recorded in like manner; and such entry of record of any such inquisition or supersedeas shall, if the lord chancellor of Great Britain, intrusted as aforesaid, shall see fit, and so long as he or they shall so see fit, be acted upon by him or them respectively, and be of the same force and validity, and have the same force and effect, as if such inquisition had been taken on a commission under the great seal of Great Britain, and such writ of supersedeas had been issued under the great seal of Great Britain.

No. I.
W. 4, c. 65

XLII. That the powers and authorities given by this act to the lord chancellor of Great Britain, intrusted as aforesaid, shall and may be exercised in like manner by, and are hereby given to, the lord keeper or commissioners of the great seal of Great Britain for the time being, intrusted as aforesaid; and the powers and authorities given by this act to the lord chancellor of Ireland, intrusted as aforesaid, shall and may be exercised in like manner by, and are hereby given to, the lord keeper or commissioners of the great seal of Ireland for the time being, intrusted as aforesaid.

Powers given to the lord chancellor to extend to the lord keeper and commissioners.

XLIII. Provided always, That in all cases in which orders shall be made in pursuance of this act for the transfer of stock, the person to be named in such order for making such transfer shall be some officer of such company or society in whose books such transfer shall be made; and where such transfer shall be directed to be made in books kept by the governor and company of the Bank of England, such officer shall be the secretary or deputy secretary, or accountant general or deputy accountant general, for the time being of the said governor and company.

Who shall be named in the orders of the court for making transfers.

XLIV. That this act shall be and is hereby declared to be a full and complete indemnity and discharge to the governor and company of the Bank of England, and all other companies and societies, and their officers and servants, for all acts and things done or permitted to be done pursuant thereto; and that such acts and things shall not be questioned or impeached in any court of law or equity to their prejudice or detriment.

Act to be an indemnity to the bank and other companies.

PART II.

CLASS VII.

FRAUDULENT CONVEYANCES.

[As to when the right to bring a suit in equity for the recovery of land or rent in case of a concealed fraud shall accrue. See the 3 & 4 W. 4, c. 27, s. 26, Part IV. Class 8, *Limitations*.]

PART II.

CLASS VIII.

LEASES.

[For the clauses of the same act applicable to leases; see as above. As to leases of crown lands, see Part II. Class 12, *Land Revenue of the Crown*; see also Part IV. Class 19, *Distress*.]

PART II.

CLASS IX.

USES.

[There has been no recent statute upon this subject.]

PART II.

CLASS X.

FINES AND RECOVERIES.

[No. I.] 3 & 4 W. IV. c. 74.—An Act for the Abolition of Fines and Recoveries, and for the Substitution of more simple Modes of Assurance. [28th August 1833.]

BE it enacted, &c., That in the construction of this act the word **“lands”** shall extend to manors, advowsons, rectories, messuages, lands, tenements, tithes, rents, and hereditaments of any tenure (except copy of court roll), and whether corporeal or incorporeal, and any undivided share thereof, but when accompanied by some expression including or denoting the tenure by copy of court roll, shall extend to manors, messuages, lands, tenements, and hereditaments of that tenure, and any undivided share thereof; and the word **“estate”** shall extend to an estate in equity as well as at law, and shall also extend to any interest, charge, lien, or incumbrance in, upon, or affecting lands, either at law or in equity, and shall also extend to any interest, charge, lien, or incumbrance in, upon, or affecting money subject to be invested in the purchase of lands: and the expression **“base fee”** shall mean exclusively that estate in fee simple into which an estate tail is converted where the issue in tail are barred, but persons claiming estates by way of remainder or otherwise are not barred; and the expression **“estate tail,”** in addition to its usual meaning, shall mean a base fee into which an estate tail shall have been converted; and the expression **“actual tenant in tail”** shall mean exclusively the tenant of an estate tail which shall not have been barred, and such tenant shall be deemed an actual tenant in tail, although the estate tail may have been divested or turned to a right; and the expression **“tenant in tail”** shall mean not only an actual tenant in tail, but also a person who, where an estate tail shall have been barred and converted into a base fee, would have been tenant of such estate tail if the same had not been barred; and the expression **“tenant in tail entitled to a base fee”** shall mean a person entitled to a base fee, or to the ultimate beneficial interest in a base fee, and who, if the base fee had not been created, would have been actual tenant in tail; and the expression **“money subject to be invested in the purchase of lands”** shall include money, whether raised or to be raised, and whether the amount thereof be or be not ascertained, and shall extend to stocks and funds, and real and other securities, the produce of which is directed to be invested in the purchase of lands, and the lands to be purchased with such money or produce shall extend to lands held by copy of court roll, and also to lands of any tenure in Ireland or elsewhere out of England, where such lands or any of them are within the scope or meaning of the trust or power directing or authorizing the purchase; and the word **“person”** shall extend to a body politic, corporate, or collegiate, as well as an individual: and every word importing the singular number only shall extend and be applied to several persons or things as well as one person or thing; and every word importing the plural number shall extend and be applied to one person or thing as well as several persons or things; and every word importing the masculine gender only shall extend and be applied

Meaning of certain words and expressions
“Lands.”

“Estate.”

“Base fee.”

“Estate tail.”

“Actual tenant in tail.”

“Tenant in

“Tenant in tail

base fee.”

“Money.”

“Person.”

Number and gender.

No. I.
3 & 4 W. 4,
c. 74.

Settlement.

No fine or recovery to be levied or suffered after the 31st of Dec. 1833.

Persons liable after 31st Dec. 1833 to levy fines or suffer recoveries under covenants to effect the purposes intended by means of this act; but in any case where the purpose of a fine or recovery cannot be so effected the persons liable to levy fines or suffer recoveries shall execute a deed which shall have the same operation as the fine or recovery.

to a female as well as a male; and every assurance already made or hereafter to be made, whether by deed, will, private act of parliament, or otherwise, by which lands are or shall be entailed, or agreed or directed to be entailed, shall be deemed a settlement; and every appointment made in exercise of any power contained in any settlement, or of any other power arising out of the power contained in any settlement, shall be considered as part of such settlement, and the estate created by such appointment shall be considered as having been created by such settlement; and where any such settlement is or shall be made by will, the time of the death of the testator shall be considered the time when such settlement was made: Provided always, that those words and expressions occurring in this clause, to which more than one meaning is to be attached, shall not have the different meanings given to them by this clause in those cases in which there is any thing in the subject or context repugnant to such construction.

II. That after the thirty-first day of December one thousand eight hundred and thirty-three no fine shall be levied or common recovery suffered of lands of any tenure, except where parties intending to levy a fine or suffer a common recovery shall, on or before the thirty-first day of December one thousand eight hundred and thirty-three, have sued out a writ of dedimus, or any other writ, in the regular proceedings of such fine or recovery; and any fine or common recovery which shall be levied or suffered contrary to this provision shall be absolutely void.

III. That in case any person shall, after the thirty-first day of December one thousand eight hundred and thirty-three, be liable to levy a fine or suffer a common recovery of lands of any tenure, or to procure some other person to levy a fine or suffer a common recovery of lands of any tenure, under a covenant or agreement already entered into or hereafter to be entered into, before the first day of January one thousand eight hundred and thirty-four, then and in such case, if all the purposes intended to be effected by such fine or recovery can be effected by a disposition under this act, the person liable to levy such fine or suffer such recovery, or to procure some other person to levy such fine or suffer such recovery, shall after the thirty-first day of December one thousand eight hundred and thirty-three, be subject and liable under such covenant or agreement to make or to procure to be made such a disposition under this act as will effect all the purposes intended to be effected by such fine or recovery; but if some only of the purposes intended to be effected by such fine or recovery can be effected by a disposition under this act, then the person so liable to levy such fine or suffer such recovery, or to procure some other person to levy such fine or suffer such recovery as aforesaid, shall, after the thirty-first day of December one thousand eight hundred and thirty-three, be subject and liable under such covenant or agreement to make or procure to be made such a disposition under this act as will effect such of the purposes intended to be effected by such fine or recovery as can be effected by a disposition under this act; and in those cases where the purposes intended to be effected by such fine or recovery or any of them cannot be effected by any disposition under this act, then the person so liable to levy such fine or suffer such recovery, or to procure some other person to levy such fine or suffer such recovery as aforesaid, shall, after the thirty-first day of December one thousand eight hundred and thirty-three, be liable under such covenant or agreement to execute or to procure to be executed some deed whereby the person intended to levy such fine or suffer such recovery shall declare his desire that such deed shall have the same operation and effect as such fine or recovery would have had if the same had been actually levied or suffered; and the deed by which such declaration shall be made shall, if none of the purposes intended to be effected by such fine or recovery can be effected by a disposition under this act, have the same operation and effect in every respect as such fine or recovery would have had if the same had been actually levied or suffered: but if some only of the purposes intended

to be effected by such fine or recovery can be effected by a disposition under this act, then the deed by which such declaration shall be made shall, so far as the purposes intended to be effected by such fine or recovery cannot be effected by a disposition under this act, have the same operation and effect in every respect as such fine or recovery would have had if the same had been actually levied or suffered.

IV. That no fine already levied in a superior court of lands of the tenure of ancient demesne which hath not been reversed, and no fine hereafter to be levied of lands of that tenure, shall, upon a writ of deceit already brought by the lord of the manor of which the lands were parcel, the proceedings in which are now pending, or upon a writ of deceit which at any time after the passing of this act may be brought by the lord of the said manor, be reversed as to any person except the lord of the said manor; and the court shall order such fine to be vacated only as to the lord of the said manor; and every such fine which may be reversed as to the lord of the said manor upon such writ of deceit as aforesaid shall still remain as good and valid against and as binding upon the consors thereof, and all persons claiming under them, as such fine would have been if the same had not been reversed by such writ of deceit as aforesaid; and no common recovery already suffered in a superior court of lands of the tenure of ancient demesne which hath not been reversed, and no common recovery hereafter to be suffered of lands of that tenure, shall, upon a writ of deceit already brought by the lord of the manor of which the lands were parcel, the proceedings in which are now pending, or upon a writ of deceit which at any time after the passing of this act may be brought by the lord of the said manor, be reversed as to any person except the lord of the said manor; and the court shall order such recovery to be vacated only as to the lord of the said manor; and every such recovery which may be reversed as to the lord of the said manor upon such writ of deceit as aforesaid shall still remain as good and valid against and as binding upon the vouches therein, and all persons claiming under them, as such recovery would have been if the same had not been reversed by such writ of deceit as aforesaid.

V. That if at any time before or after the passing of this act a fine or common recovery shall have been levied or suffered, or shall be levied or suffered in a superior court, of lands of the tenure of ancient demesne, and subsequently to the levying or suffering thereof a fine or common recovery shall have been or shall be levied or suffered of the same lands in the court of the lord of the manor of which the lands had been previously parcel, and the fine or common recovery levied or suffered in such superior court shall not have been reversed previously to the levying of the fine or the suffering of the common recovery in the lord's court, then and in every such case the fine or common recovery levied or suffered in the lord's court shall, notwithstanding the alteration or change of the tenure by the fine or common recovery previously levied or suffered in the superior court, be as good, valid, and binding as the same would have been if the tenure had not been altered or changed; and that in every other case where any fine or common recovery shall at any time before the passing of this act have been levied or suffered in a court whose jurisdiction does not extend to the lands of which such fine or recovery shall have been levied or suffered, such fine or recovery shall not be invalid in consequence of its having been levied or suffered in such court, and such court shall be deemed a court of sufficient jurisdiction for all the purposes of such fine or recovery; and in every other case where persons shall have assumed to hold courts in which fines or common recoveries have been levied or suffered, and such courts shall be unlawful or held without due authority, the fines or common recoveries which at any time before the passing of this act may have been levied or suffered in such unlawful or unauthorized courts shall not be invalid in consequence of their having been levied or suffered therein, and such courts shall be deemed

No. I.
3 & 4 W. 4,
c. 74.

Fines and recoveries of lands in ancient demesne, when levied or suffered in a superior court, may be reversed as to the lord by writs of deceit, the proceedings in which are now pending, or by writs of deceit hereafter to be brought, but shall be as valid against the parties thereto, and persons claiming under them, as if not reversed as to the lord.

Fines and recoveries of lands in ancient demesne levied or suffered in the manor court, after other fines and recoveries in a superior court, shall be as valid as if the tenure had not been changed.

Fines and recoveries shall not be invalid in other cases, though levied or suffered in courts whose jurisdictions may not extend to the lands therein comprised.

No. I.
3 & 4 W. 4,
c. 74.

not passed; and while the said records and proceedings respectively shall be kept by such persons respectively, searches may be made and extracts and copies obtained as heretofore, and on paying the accustomed fees; and when any of the records and proceedings shall, by the order of the court or justices having the control over the same, be kept by any other person, then, so far as relates to the records and proceedings in the custody of such other person, searches may be made and extracts or copies obtained at such times and on paying such fees as shall from time to time be ordered by the court or justices having the control over the same; and the extracts or copies so obtained shall be as available in evidence as they would have been if obtained from the person whose duty it would have been to have made and delivered out the same if this act had not been passed.

Estates tail, and estates expectant thereon, no longer barrable by warranty.

Power, after the 31st Dec. 1833, to dispose of lands entailed in fee simple or for a less estate, saving the rights of certain persons.

XIV. That all warranties of lands which after the the thirty-first day of December one thousand eight hundred and thirty-three shall be made or entered into by any tenant in tail thereof shall be absolutely void against the issue in tail, and all persons whose estates are to take effect after the determination or in defeasance of the estate tail.

XV. That after the thirty-first day of December one thousand eight hundred and thirty-three every actual tenant in tail, whether in possession, remainder, contingency, or otherwise, shall have full power to dispose of for an estate in fee simple absolute, or for any less estate, the lands entailed, as against all persons claiming the lands entailed by force of any estate tail which shall be vested in or might be claimed by, or which but for some previous act would have been vested in or might have been claimed by, the person making the disposition, at the time of his making the same, and also as against all persons, including the king's most excellent Majesty, his heirs and successors, whose estates are to take effect after the determination or in defeasance of any such estate tail; saving always the rights of all persons in respect of estates prior to the estate tail in respect of which such disposition shall be made, and the rights of all other persons, except those against whom such disposition is by this act authorized to be made.

Power of disposition not to be exercised by women tenants in tail ex provisione viri, under 11 H. 7, c. 20, except with assent.

XVI. Provided always, That where, under any settlement made before the passing of this act, any woman shall be tenant in tail of lands within the provisions of an act passed in the eleventh year of the reign of his Majesty king Henry the seventh, intituled *Certain Alienations made by the Wife of the Lands of her deceased Husband shall be void*, the power of disposition herein-before contained as to such lands shall not be exercised by her except with such assent as, if this act had not been passed, would, under the provisions of the said act of king Henry the seventh, have rendered valid a fine or common recovery levied or suffered by her of such lands.

Except as to lands in settlements before this act, the act 11 H. 7, c. 20, repealed.

XVII. Provided always, That, except as to lands comprised in any settlement made before the passing of this act, the said act of the eleventh year of the reign of his Majesty king Henry the seventh shall be and the same is hereby repealed.

The power of disposition not to extend to certain tenants in tail.

XVIII. Provided always, That the power of disposition herein-before contained shall not extend to tenants of estates tail who, by an act passed in the thirty-fourth and thirty-fifth years of the reign of his Majesty king Henry the Eighth, intituled *An Act to embar feigned Recovery of Lands wherein the King is in Reversion*, or by any other act, are restrained from barring their estates tail, or to tenants in tail after possibility of issue extinct.

Power, after the 31st of Dec. 1833, to enlarge base fees; saving the rights of certain persons.

XIX. That after the thirty-first day of December one thousand eight hundred and thirty-three, in every case in which an estate tail in any lands shall have been barred and converted into a base fee, either before or on or after that day, the person who, if such estate tail had not been barred, would have been actual tenant in tail of the same lands, shall have full power to dispose of such lands as against all persons, including the king's most excellent Majesty, his heirs and successors, whose estates are to take effect after the determination or in defeasance of the

base fee into which the estate tail shall have been converted, so as to enlarge the base fee into a fee simple absolute; saving always the rights of all persons in respect of estates prior to the estate tail which shall have been converted into a base fee, and the rights of all other persons, except those against whom such disposition is by this act authorized to be made.

No. I.
3 & 4 W. 4,
c. 74.

XX. Provided always, That nothing in this act contained shall enable any person to dispose of any lands entailed in respect of any expectant interest which he may have as issue inheritable to any estate tail expectancies.

XXI. Provided always, That if a tenant in tail of lands shall make a disposition of the same, under this act, by way of mortgage, or for any other limited purpose, then and in such case such disposition shall, to the extent of the estate thereby created, be an absolute bar in equity as well as at law to all persons as against whom such disposition is by this act authorized to be made, notwithstanding any intention to the contrary may be expressed or implied in the deed by which the disposition may be effected: Provided always, That if the estate created by such disposition shall be only an estate *pour autre vie*, or for years absolute or determinable, or if, by a disposition under this act by a tenant in tail of lands, an interest, charge, lien, or incumbrance shall be created without a term of years absolute or determinable, or any greater estate, for securing or raising the same, then such disposition shall in equity be a bar only so far as may be necessary to give full effect to the mortgage, or to such other limited purpose, or to such interest, lien, charge, or incumbrance, notwithstanding any intention to the contrary may be expressed or implied in the deed by which the disposition may be effected.

XXII. That if at the time when there shall be a tenant in tail of lands under a settlement, there shall be subsisting in the same lands or any of them, under the same settlement, any estate for years determinable on the dropping of a life or lives, or any greater estate (not being an estate for years), prior to the estate tail, then the person who shall be the owner of the prior estate, or the first of such prior estates if more than one, then subsisting under the same settlement, or who would have been so if no absolute disposition thereof had been made, (the first of such prior estates, if more than one, being for all the purposes of this act deemed the prior estate,) shall be the protector of the settlement so far as regards the lands in which such prior estate shall be subsisting, and shall for all the purposes of this act be deemed the owner of such prior estate, although the same may have been charged or incumbered either by the owner thereof or by the settlor, or otherwise howsoever, and although the whole of the rents and profits be exhausted or required for the payment of the charges and incumbrances on such prior estate, and although such prior estate may have been absolutely disposed of by the owner thereof, or by or in consequence of the bankruptcy or insolvency of such owner, or by any other act or default of such owner; and that an estate by the curtesy, in respect of the estate tail, or of any prior estate created by the same settlement, shall be deemed a prior estate under the same settlement within the meaning of this clause; and that an estate by way of resulting use or trust to or for the settlor shall be deemed an estate under the same settlement within the meaning of this clause.

XXIII. Provided always, That where two or more persons shall be owners, under a settlement within the meaning of this act, of a prior estate, the sole owner of which estate, if there had been only one, would in respect thereof have been the protector of such settlement, each of such persons, in respect of such undivided share as he could dispose of, shall for all the purposes of this act be deemed the owner of a prior estate, and shall, in exclusion of the other or others of them, be the sole protector of such settlement to the extent of such undivided share.

Extent of the estate created by a tenant in tail by way of mortgage, or for any other limited purpose.

The owner of the first existing estate under a settlement, prior to an estate tail under the same settlement, to be the protector of the settlement.

Each of two or more owners of a prior estate to be the sole protector as to his share.

No. I.
3 & 4 W. 4,
c. 74.

Where a married woman alone shall be the protector, and where she

As to estates confirmed or restored by settlement.

As to leases at rent created by settlement.

No tenant in dower, heir, executor, &c. to be protector, except in the case of a bare trustee.

Who shall be the protector where the owner of the prior estate shall, by the two last clauses, be excluded.

Where, in the disposition of an estate before the 31st Dec. 1833, the person to make the tenant to the writ of entry in a recovery shall be the protector.

Where, in the case of the disposition of a reversion on or before the 31st of Dec. 1833, the person to make the tenant to the writ of entry in a recovery shall be the protector.

XXIV. Provided always, That where a married woman would, if single, be the protector of a settlement in respect of a prior estate, which is not thereby settled, or agreed or directed to be settled, to her separate use, she and her husband together shall in respect of such estate be the protector of such settlement, and shall be deemed one owner; but if such prior estate shall by such settlement have been settled, or agreed or directed to be settled, to her separate use, then and in such case she alone shall in respect of such estate be the protector of such settlement. and her husband together shall be protector.

XXV. Provided always, That, except in the case of a lease hereinafter provided for, where an estate shall be limited by a settlement by way of confirmation, or where the settlement shall merely have the effect of restoring an estate, in either of those cases such estate shall for the purposes of this act, so far as regards the protector of the settlement, be deemed an estate subsisting under such settlement.

XXVI. Provided always, That where a lease at a rent shall be created or confirmed by a settlement, the person in whose favour such lease shall be created or confirmed shall not in respect thereof be the protector of such settlement.

XXVII. Provided always, That no woman in respect of her dower, and (except in the case herein-after provided for of a bare trustee under a settlement made on or before the thirty-first day of December one thousand eight hundred and thirty-three) no bare trustee, heir, executor, administrator, or assign, in respect of any estate taken by him as such bare trustee, heir, executor, administrator, or assign, shall be the protector of a settlement.

XXVIII. Provided always, That where under any settlement there shall be more than one estate prior to an estate tail, and the person who shall be the owner within the meaning of this act of any such prior estate, in respect of which but for the two last preceding clauses, or either of them, he would have been the protector of the settlement, shall by virtue of such clauses, or either of them, be excluded from being the protector, then and in such case the person (if any) who if such estate did not exist would be the protector of the settlement shall be such protector.

XXIX. Provided always, That where already, or on or before the thirty-first day of December one thousand eight hundred and thirty-three, an estate under a settlement shall have been disposed of either absolutely or otherwise, and either for valuable consideration or not, the person who in respect of such estate would, if this act had not been passed, have been the proper person to have made the tenant to the writ of entry or other writ for suffering a common recovery of the lands entailed by such settlement, shall, during the continuance of the estate which conferred the right to make the tenant to such writ of entry or other writ, be the protector of such settlement.

XXX. Provided always, That where any person having either already, or on or before the thirty-first day of December one thousand eight hundred and thirty-three, either for valuable consideration or not, disposed of, either absolutely or otherwise, a remainder or reversion in fee in any lands, or created any estate out of such remainder or reversion, would under this act, if this clause had not been inserted, have been the protector of the settlement by which the lands were entailed in which such remainder or reversion may be subsisting, and thereby be enabled to concur in the barring of such remainder or reversion, which he could not have done if he had not become such protector, then and in every such case the person who, if this act had not been passed, would have been the proper person to have made the tenant to the writ of entry or other writ for suffering a common recovery of such lands, shall, during the continuance of the estate which conferred the right to make the tenant to such writ of entry or other writ, be the protector of such settlement.

XXXI. Provided always, That where, under any settlement of lands made before the passing of this act, the person who, if this act had not been passed, would have been the proper person to make the tenant to the writ of entry or other writ for suffering a common recovery of such lands for the purpose of barring any estate tail or other estate under such settlement, shall be a bare trustee, such trustee shall, during the continuance of the estate conferring on him the right to make the tenant to such writ of entry or other writ, be the protector of such settlement.

No. I.
3 & 4 W. 4,
c. 74.

Where a bare trustee under a settlement made before the protector.

XXXII. Provided always, that it shall be lawful for any settlor entailing lands to appoint, by the settlement by which the lands shall be entailed, any number of persons in esse, not exceeding three, and not being aliens, to be protector of the settlement in lieu of the person who would have been the protector if this clause had not been inserted, and either for the whole or any part of the period for which such person might have continued protector, and by means of a power to be inserted in such settlement to perpetuate during the whole or any part of such period the protectorship of the settlement in any one person or number of persons in esse, and not being an alien or aliens, whom the donee of the power shall think proper by deed to appoint protector of the settlement in the place of any one person or number of persons who shall die or shall by deed relinquish his or their office of protector; and the person or persons so appointed shall, in case of there being no other person then protector of the settlement, be the protector, and shall, in case of there being any other person then protector of the settlement, be protector jointly with such other person: Provided nevertheless, that by virtue or means of any such appointment the number of the persons to compose the protector shall never exceed three: Provided further nevertheless, that every deed by which a protector shall be appointed under a power in a settlement, and every deed by which a protector shall relinquish his office, shall be void unless enrolled in his Majesty's high court of chancery within six calendar months after the execution thereof: Provided further nevertheless, that the person who but for this clause would have been sole protector of the settlement may be one of the persons to be appointed protector under this clause, if the settlor shall think fit, and shall, unless otherwise directed by the settlor, act as sole protector if the other persons constituting the protector shall have ceased to be so by death or relinquishment of the office by deed, and no other person shall have been appointed in their place.

Power to any settlor to appoint the protector.

XXXIII. Provided always, That if any person, protector of a settlement, shall be lunatic, idiot, or of unsound mind, and whether he shall have been found such by inquisition or not, then the lord high chancellor of Great Britain, or the lord keeper or the lords commissioners for the custody of the great seal of Great Britain, for the time being, or other the person or persons for the time being intrusted by the king's sign manual with the care and commitment of the custody of the persons and estates of persons found lunatic, idiot, and of unsound mind, shall be the protector of such settlement in lieu of the person who shall be such lunatic or idiot or of unsound mind as aforesaid; or if any person, protector of a settlement, shall be convicted of treason or felony, or if any person, not being the owner of a prior estate under a settlement, shall be protector of such settlement, and shall be an infant, or if it shall be uncertain whether such last-mentioned person be living or dead, then his Majesty's high court of chancery shall be the protector of such settlement in lieu of the person who shall be an infant, or whose existence cannot be ascertained as aforesaid; or if any settlor entailing lands shall in the settlement by which the lands shall be entailed declare that the person who as owner of a prior estate under such settlement would be entitled to be protector of the settlement shall not be such protector, and shall not appoint any person to be protector in his stead, then the said court of chancery shall, as to the lands in which such prior estate shall be subsisting, be the protector of the settlement

In cases of lunacy, the lord chancellor or lord keeper or lords commissioners, or other persons intrusted with lunatics, or in cases of treason or felony, &c. the court of chancery to be the protector.

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during the continuance of such estate; or if in any other case where there shall be subsisting under a settlement an estate prior to an estate tail under the same settlement, and such prior estate shall be sufficient to qualify the owner thereof to be protector of the settlement, and there shall happen at any time to be no protector of the settlement as to the lands in which the prior estate shall be subsisting, the said court of chancery shall, while there shall be no such protector, and the prior estate shall be subsisting, be the protector of the settlement as to such lands.

Where there is a protector, his consent requisite to enable an actual tenant in tail to create a larger estate than a base fee.

XXXIV. Provided always, That if at the time when any person, actual tenant in tail of lands under a settlement, but not entitled to the remainder or reversion in fee immediately expectant on the determination of his estate tail, shall be desirous of making under this act a disposition of the lands entailed, there shall be a protector of such settlement, then and in every such case the consent of such protector shall be requisite to enable such actual tenant in tail to dispose of the lands entailed to the full extent to which he is herein-before authorized to dispose of the same; but such actual tenant in tail may, without such consent, make a disposition under this act of the lands entailed, which shall be good against all persons who, by force of any estate tail which shall be vested in or might be claimed by, or which but for some previous act or default would have been vested in or might have been claimed by, the person making the disposition at the time of his making the same, shall claim the lands entailed.

Where a base fee, and a protector, his consent requisite to the exercising of a power of disposition.

XXXV. Provided always, That where an estate tail shall have been converted into a base fee, in such case, so long as there shall be a protector of the settlement by which the estate tail was created, the consent of such protector shall be requisite to enable the person who would have been tenant of the estate tail if the same had not been barred to exercise, as to the lands in respect of which there shall be such protector, the power of disposition herein-before contained.

The protector to be subject to no control in the exercise of his power of consenting.

XXXVI. That any device, shift, or contrivance by which it shall be attempted to control the protector of a settlement in giving his consent, or to prevent him in any way from using his absolute discretion in regard to his consent, and also any agreement entered into by the protector of a settlement to withhold his consent, shall be void; and that the protector of a settlement shall not be deemed to be a trustee in respect of his power of consent; and a court of equity shall not control or interfere to restrain the exercise of his power of consent, nor treat his giving consent as a breach of trust.

Certain rules of equity not to apply between the protector and a tenant in tail under the same.

XXXVII. Provided always, That the rules of equity in relation to dealings and transactions between the donee of a power and any object of the power in whose favour the same may be exercised, shall not be held to apply to dealings and transactions between the protector of a settlement and a tenant in tail under the same settlement, upon the occasion of the protector giving his consent to a disposition by a tenant in tail under this act.

A voidable estate by a tenant in tail, in favour of a purchaser, confirmed by a subsequent disposition of such tenant in tail under this act, but not against a purchaser without notice.

XXXVIII. Provided always, That when a tenant in tail of lands under a settlement shall have already created or shall hereafter create in such lands, or any of them, a voidable estate in favour of a purchaser for valuable consideration, and shall afterwards under this act, by any assurance other than a lease not requiring enrolment, make a disposition of the lands in which such voidable estate shall be created, or any of them, such disposition, whatever its object may be, and whatever may be the extent of the estate intended to be thereby created, shall, if made by the tenant in tail with the consent of the protector (if any) of the settlement, or by the tenant in tail alone, if there shall be no such protector, have the effect of confirming such voidable estate in the lands thereby disposed of to its full extent as against all persons except those whose rights are saved by this act; but if at the time of making the disposition there shall be a protector of the settlement, and such protector shall not consent to the disposition, and the tenant in tail shall

not without such consent be capable under this act of confirming the voidable estate to its full extent, then and in such case such disposition shall have the effect of confirming such voidable estate so far as such tenant in tail would then be capable under this act of confirming the same without such consent: Provided always, That if such disposition shall be made to a purchaser for valuable consideration, who shall not have express notice of the voidable estate, then and in such case the voidable estate shall not be confirmed as against such purchaser and the persons claiming under him.

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XXXIX. That if a base fee in any lands, and the remainder or reversion in fee in the same lands, shall at the time of the passing of this act, or at any time afterwards, be united in the same person, and at any time after the passing of this act there shall be no intermediate estate between the base fee and the remainder or reversion, then and in such case the base fee shall not merge, but shall be *ipso facto* enlarged into as large an estate as the tenant in tail, with the consent of the protector (if any) might have created by any disposition under this act if such remainder or reversion had been vested in any other person.

Base fees, when united with the immediate reversions, enlarged instead of being merged.

XL. That every disposition of lands under this act by a tenant in tail thereof shall be effected by some one of the assurances (not being a will) by which such tenant in tail could have made the disposition if his estate were an estate at law in fee simple absolute: Provided nevertheless, That no disposition by a tenant in tail shall be of any force either at law or in equity, under this act, unless made or evidenced by deed; and that no disposition by a tenant in tail resting only in contract, either express or implied, or otherwise, and whether supported by a valuable or meritorious consideration or not, shall be of any force at law or in equity under this act, notwithstanding such disposition shall be made or evidenced by deed; and if the tenant in tail making the disposition shall be a married woman, the concurrence of her husband shall be necessary to give effect to the same; and any deed which may be executed by her for effecting the disposition shall be acknowledged by her as herein-after directed.

Tenant in tail to make a disposition by deed as if seised in fee, but not by will or contract; and if a married woman, with her husband's concurrence.

XLI. Provided always, That no assurance by which any disposition of lands shall be effected under this act by a tenant in tail thereof (except a lease for any term not exceeding twenty-one years, to commence from the date of such lease, or from any time not exceeding twelve calendar months from the date of such lease, where a rent shall be thereby reserved, which, at the time of granting such lease, shall be a rack rent, or not less than five sixth parts of a rack rent,) shall have any operation under this act unless it be inrolled in his Majesty's high court of chancery within six calendar months after the execution thereof; and if the assurance by which any disposition of lands shall be effected under this act shall be a bargain and sale, such assurance, although not inrolled within the time prescribed by the act passed in the twenty-seventh year of the reign of his Majesty king Henry the eighth, intituled *For Inrollment of Bargains and Sales*, shall, if inrolled in the said court of chancery within the time prescribed by this clause, be as good and valid as the same would have been if the same had been inrolled in the said court within the time prescribed by the said act of Henry the eighth.

Every assurance by a tenant in tail, except a lease not exceeding 21 years at a rack rent, or not less than five-sixths of a rack rent, to be inoperative unless inrolled in chancery within six months. 28 H. 8, c. 16.

XLII. That the consent of the protector of a settlement to the disposition under this act of a tenant in tail shall be given either by the same assurance by which the disposition shall be effected, or by a deed distinct from the assurance, and to be executed either on or at any time before the day on which the assurance shall be made, otherwise the consent shall be void.

Consent of the protector to be given by the same assurance or by a distinct deed.

XLIII. That if the protector of a settlement shall, by a distinct deed, give his consent to the disposition of a tenant in tail, it shall be considered that such protector has given an absolute and unqualified

If by distinct deed, to be considered unqualified, unless he refer to the assurance.

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Protector not
to revoke his
consent.

A married
woman protec-
tor to consent
as a feme sole.

Consent of a
protector by
distinct deed
void, unless in-
rolled with or
before the as-
surance.

Courts of equity
excluded from
giving any ef-
fect to disposi-
tions by tenants
in tail, or con-
sents of protec-
tors of settle-
ments, which
in courts of
law would not
be effectual.

Lord chancel-
lor, &c. to
have power to
consent to a
disposition by a
tenant in tail,
and to make
such orders as
shall be
thought neces-
sary; and if
any other per-
son shall be
joint protector
the disposition
not to be valid
without his
consent.

consent, unless in such deed he shall refer to the particular assurance by which the disposition shall be effected, and shall confine his consent to the disposition thereby made.

XLIV. That it shall not be lawful for the protector of a settlement who, under this act, shall have given his consent to the disposition of a tenant in tail, to revoke such consent.

XLV. That any married woman, being either alone or jointly with her husband protector of a settlement, may under this act, in the same manner as if she were a feme sole, give her consent to the disposition of a tenant in tail.

XLVI. Provided always, That the consent of a protector to the disposition of a tenant in tail shall, if given by a deed distinct from the assurance by which the disposition shall be effected by the tenant in tail, be void, unless such deed be inrolled in his Majesty's high court of chancery either at or before the time when the assurance shall be inrolled.

XLVII. That in cases of dispositions of lands under this act by tenants in tail thereof, and also in cases of consents by protectors of settlements to dispositions of lands under this act by tenants in tail thereof, the jurisdiction of courts of equity shall be altogether excluded, either on the behalf of a person claiming for a valuable or meritorious consideration, or not, in regard to the specific performance of contracts, and the supplying of defects in the execution either of the powers of disposition given by this act to tenants in tail, or of the powers of consent given by this act to protectors of settlements, and the supplying under any circumstances of the want of execution of such powers of disposition and consent respectively, and in regard to giving effect in any other manner to any act or deed by a tenant in tail or protector of a settlement which in a court of law would not be an effectual disposition or consent under this act; and that no disposition of lands under this act by a tenant in tail thereof in equity, and no consent by a protector of a settlement to a disposition of lands under this act by a tenant in tail thereof in equity, shall be of any force unless such disposition or consent would in case of an estate tail at law be an effectual disposition or consent under this act in a court of law.

XLVIII. Provided always, That in every case in which the lord high chancellor, lord keeper or lords commissioners for the custody of the great seal, or other the person or persons intrusted with the care and commitment of the custody of the persons and estates of persons found lunatic, idiot, and of unsound mind, or his Majesty's high court of chancery, shall be the protector of a settlement, such lord high chancellor, lord keeper, or lords commissioners, or person or persons so intrusted as aforesaid, or the said court of chancery (as the case may be), while protector of such settlement, shall, on the motion or petition in a summary way by a tenant in tail under such settlement, have full power to consent to a disposition under this act by such tenant in tail, and the disposition to be made by such tenant in tail upon such motion or petition as aforesaid shall be such as shall be approved of by such lord high chancellor, lord keeper, or lords commissioners, or person or persons so intrusted as aforesaid, or the said court of chancery (as the case may be); and it shall be lawful for such lord high chancellor, lord keeper, or lords commissioners, or person or persons so intrusted as aforesaid, or the said court of chancery (as the case may be), to make such orders in the matter as shall be thought necessary; and if such lord high chancellor, lord keeper, or lords commissioners, or person or persons so intrusted as aforesaid, or the said court of chancery (as the case may be), shall, in lieu of any such person as aforesaid, be the protector of a settlement, and there shall be any other person protector of the same settlement jointly with such person as aforesaid, then and in every such case the disposition by the tenant in tail, though approved of as aforesaid, shall

not be valid, unless such other person being protector as aforesaid shall consent thereto in the manner in which the consent of the protector is by this act required to be given.

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XLIX. Provided always, That in every case in which the lord high chancellor, lord keeper or lords commissioners for the custody of the great seal, or other the person or persons intrusted with the care and commitment of the custody of the persons and estates of persons found lunatic, idiot, and of unsound mind, or his Majesty's high court of chancery, shall be the protector of a settlement, no document or instrument, as evidence of the consent of such protector to the disposition of a tenant in tail under such settlement, shall be requisite beyond the order in obedience to which the disposition shall have been made.

Order of the
lord chancellor,
&c. to be
evidence of
consent.

L. That all the previous clauses in this act, so far as circumstances and the different tenures will admit, shall apply to lands held by copy of court roll, except that a disposition of any such lands under this act by a tenant in tail thereof, whose estate shall be an estate at law, shall be made by surrender, and except that a disposition of any such lands under this act by a tenant in tail thereof, whose estate shall be merely an estate in equity, may be made either by surrender or by a deed as herein-after provided, and except so far as such clauses are otherwise altered or varied by the clauses herein-after contained.

The previous
clauses to ap-
ply to copy-
holds, with cer-
tain variations.

LI. Provided always, That if the consent of the protector of a settlement to the disposition of lands held by copy of court roll by a tenant in tail thereof shall be given by deed, such deed shall, either at or before the time when the surrender shall be made by which the disposition shall be effected, be executed by such protector, and produced to the lord of the manor of which the lands are parcel, or to his steward, or to the deputy of such steward; and the consent of such protector shall be void unless such deed shall be so executed and produced; and on the production of the deed the lord, or steward, or deputy steward, shall by writing under his hand, to be indorsed on the deed, acknowledge that the same was produced within the time limited, and shall cause such deed, with the indorsement thereon, to be entered on the court rolls of the manor; and the indorsement, purporting to be so signed, shall of itself be *prima facie* evidence that the deed was produced within the time limited, and that the person who signed the indorsement was the lord of the manor, or his steward, or the deputy of such steward; and after such deed shall have been so entered the lord of the manor, or his steward, or the deputy of such steward, shall indorse thereon a memorandum signed by him, testifying the entry of the same on the court rolls.

As to the deed
of consent and
the entry of it
on the court
rolls where the
protector of a
settlement of
copyholds con-
sents by deed to
the disposition
of a tenant in
tail.

LII. Provided always, That if the consent of the protector of a settlement to the disposition of lands held by copy of court roll by a tenant in tail thereof shall not be given by deed, then and in such case the consent shall be given by the protector to the person taking the surrender by which the disposition shall be effected; and if the surrender shall be made out of court, it shall be expressly stated in the memorandum of such surrender that such consent had been given, and such memorandum shall be signed by the protector; and the lord of the manor of which the lands are parcel, or his steward, or the deputy of such steward, shall cause the memorandum, with such statement therein as to the consent, to be entered on the court rolls of the manor; and such memorandum shall be good evidence of the consent and of the surrender therein stated to be made; and the entry of the memorandum on the court rolls, or a copy of such entry, shall be as available for the purposes of evidence as any other entry on the court rolls, or a copy thereof; but if the surrender shall be made in court, the lord of the manor, or his steward, or the deputy of such steward, shall cause an entry of such surrender, containing a statement that such consent had been given, to be made on the court rolls; and the entry of such surrender on the court rolls, or a copy of such entry, shall be as available for the

As to the con-
sent of the pro-
tector of a set-
tlement of
copyholds
when not
given by deed,
and the pre-
serving of evi-
dence of the
same on the
court rolls.

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Power to equitable tenants in tail of copyholds to dispose of their lands by deed.

purposes of evidence as any other entry on the court rolls, or a copy thereof.

LIII. Provided always, That a tenant in tail of lands held by copy of court roll, whose estate shall be merely an estate in equity, shall have full power by deed to dispose of such lands under this act in the same manner in every respect as he could have done if they had been of freehold tenure; and all the previous clauses in this act shall, so far as circumstances will admit, apply to the lands in respect of which any such equitable tenant in tail shall avail himself of this present clause; and the deed by which the disposition shall be effected shall be entered on the court rolls of the manor of which the lands thereby disposed of may be parcel; and if there shall be a protector to consent to the disposition, and such protector shall give his consent by a distinct deed, the consent shall be void unless the deed of consent be executed by the protector either on or at any time before the day on which the deed of disposition shall be executed by the equitable tenant in tail; and such deed of consent shall be entered on the court rolls; and it shall be imperative on the lord of the manor, or his steward, or the deputy of such steward, when required so to do, to enter such deed or deeds on the court rolls, and he shall indorse on each deed so entered a memorandum, signed by him, testifying the entry of the same on the court rolls; Provided always, That every deed by which lands held by copy of court roll shall be disposed of under this clause, by an equitable tenant in tail thereof, shall be void against any person claiming such lands, or any of them, for valuable consideration under any subsequent assurance duly entered on the court rolls of the manor of which the lands may be parcel, unless the deed of disposition by the equitable tenant in tail be entered on the court rolls of such manor before the subsequent assurance shall have been entered.

Inrolment not necessary as to copyholds.

LIV. Provided always, That in no case where any disposition under this act of lands held by copy of court roll, by a tenant in tail thereof, shall be effected by surrender or by deed, shall the surrender or the memorandum, or a copy thereof, or the deed of disposition, or the deed, if any, by which the protector shall consent to the disposition, require inrolment otherwise than by entry on the court rolls.

Repeal of the bankrupt act, 6 G. 4, c. 16, s. 65, so far as relates to estates tail, but not to extend to lands of a bankrupt under a commission or fiat issued on or before the 31st of Dec. 1833, nor to revive former acts.

LV. That after the thirty-first day of December one thousand eight hundred and thirty-three so much of an act passed in the sixth year of the reign of his late Majesty king George the fourth, intituled *An Act to amend the Laws relating to Bankrupts*, as empowers the commissioners named in any commission of bankrupt issued against a tenant in tail to make sale of any lands, tenements, and hereditaments, situate either in England or Ireland, whereof such bankrupt shall be seised of any estate tail in possession, reversion, or remainder, and whereof no reversion or remainder is in the crown, the gift or provision of the crown, shall be and the same is hereby repealed: Provided always, That such repeal shall not extend to the lands, whatever the tenure may be, of any person adjudged a bankrupt under any commission of bankrupt, or under any fiat which, in pursuance of the said act of the sixth year of the reign of king George the fourth, or of any former act concerning bankrupts, or of an act passed in the first and second years of the reign of his Majesty king William the fourth, intituled *An Act to establish a Court of Bankruptcy*, hath been or shall be issued on or before the thirty-first day of December one thousand eight hundred and thirty-three: Provided also, That such repeal shall not have the effect of reviving in any respect the acts repealed by the said act of the sixth year of the reign of king George the fourth, or any of them.

The commissioner, in the case of an actual tenant in tail becoming

LVI. That any commissioner acting in the execution of any fiat which after the thirty-first day of December one thousand eight hundred and thirty-three shall be issued in pursuance of the said act passed in the first and second years of the reign of king William the fourth, under which any person shall be adjudged a bankrupt who at

the time of issuing such fiat, or at any time afterwards, before he shall have obtained his certificate, shall be an actual tenant in tail of lands of any tenure, shall by deed dispose of such lands to a purchaser for valuable consideration, for the benefit of the creditors of such actual tenant in tail, and shall create by any such disposition as large an estate in the lands disposed of as the actual tenant in tail, if he had not become bankrupt, could have done under this act at the time of such disposition: Provided always, That if at the time of the disposition of such lands, or any of them, by such commissioner as aforesaid, there shall be a protector of the settlement by which the estate of such actual tenant in tail in the lands disposed of by such commissioner was created, and the consent of such protector would have been requisite to have enabled the actual tenant in tail, if he had not become bankrupt, to have disposed of such lands to the full extent to which, if there had been no such protector, he could under this act have disposed of the same, and such protector shall not consent to the disposition, then and in such case the estate created in such lands, or any of them, by the disposition of such commissioner, shall be as large an estate as the actual tenant in tail, if he had not become bankrupt, could at the time of such disposition have created under this act in such lands without the consent of the protector.

LVII. That any commissioner acting in the execution of any such fiat as aforesaid under which any person shall be adjudged a bankrupt who at the time of issuing such fiat, or at any time afterwards before he shall have obtained his certificate, shall be a tenant in tail entitled to a base fee in lands of any tenure, shall by deed dispose of such lands to a purchaser for valuable consideration, for the benefit of the creditors of the person so entitled as aforesaid, provided at the time of the disposition there be no protector of the settlement by which the estate tail converted into the base fee was created; and by such disposition the base fee shall be enlarged into as large an estate as the same could at the time of such disposition have been enlarged into under this act by the person so entitled if he had not become bankrupt.

LVIII. That the commissioner acting in the execution of any such fiat as aforesaid under which a person being, or before obtaining his certificate becoming, an actual tenant in tail of lands of any tenure, or a tenant in tail entitled to a base fee in lands of any tenure, shall be adjudged a bankrupt, shall, if there shall be a protector of the settlement by which the estate tail of such actual tenant in tail, or the estate tail converted into a base fee (as the case may be), was created, stand in the place of such actual tenant in tail, or tenant in tail so entitled as aforesaid, so far as regards the consent of such protector; and the disposition of such lands, or any of them, by such commissioner as aforesaid, if made with the consent of such protector, shall, whether such commissioner may have made under this act a prior disposition of the same lands without the consent of such protector or not, or whether a prior sale or conveyance of the same lands shall have been made or not, under the said acts of the sixth year of king George the fourth and the first and second years of king William the fourth, or either of them, or any acts hereafter to be passed concerning bankrupts, have the same effect as such disposition would have had if such actual tenant in tail, or tenant in tail so entitled as aforesaid, had not become bankrupt, and such disposition had been made by him under this act, with the consent of such protector; and all the previous clauses in this act, in regard to the consent of the protector to the disposition of a tenant in tail of lands not held by copy of court roll, and in regard to the time and manner of giving such consent, and in regard to the enrolment of the deed of consent, where such deed shall be distinct from the assurance by which the disposition of the commissioner shall be effected, shall, except so far as the same may be varied by the clause next herein-after contained, apply to every consent that may be given by virtue of this present clause.

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bankrupt after the 31st of Dec. 1833, by deed to dispose of the lands of the bankrupt to a purchaser.

Commissioner, in case of a tenant in tail entitled to a base fee becoming bankrupt, and of there being no protector, by deed to dispose of the lands of the bankrupt to a purchaser.

As to the consent of the protector in case of bankruptcy.

LIX. That every deed by which any commissioner acting in the execution of any such fiat as aforesaid under which a person being, or before obtaining his certificate becoming, an actual tenant in tail of lands of any tenure, or a tenant in tail entitled to a base fee in lands of any tenure, shall be adjudged a bankrupt, shall, if there shall be a protector of the settlement by which the estate tail of such actual tenant in tail, or the estate tail converted into a base fee (as the case may be), was created, stand in the place of such actual tenant in tail, or tenant in tail so entitled as aforesaid, so far as regards the consent of such protector; and the disposition of such lands, or any of them, by such commissioner as aforesaid, if made with the consent of such protector, shall, whether such commissioner may have made under this act a prior disposition of the same lands without the consent of such protector or not, or whether a prior sale or conveyance of the same lands shall have been made or not, under the said acts of the sixth year of king George the fourth and the first and second years of king William the fourth, or either of them, or any acts hereafter to be passed concerning bankrupts, have the same effect as such disposition would have had if such actual tenant in tail, or tenant in tail so entitled as aforesaid, had not become bankrupt, and such disposition had been made by him under this act, with the consent of such protector; and all the previous clauses in this act, in regard to the consent of the protector to the disposition of a tenant in tail of lands not held by copy of court roll, and in regard to the time and manner of giving such consent, and in regard to the enrolment of the deed of consent, where such deed shall be distinct from the assurance by which the disposition of the commissioner shall be effected, shall, except so far as the same may be varied by the clause next herein-after contained, apply to every consent that may be given by virtue of this present clause.

As to the enrol-

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ment in chan-
cery of the deed
of disposition of
freehold lands,
and the entry
on the court
rolls of the deed
of disposition of
copyhold
lands;

and of the deed
of consent.

Subsequent en-
largement of
base fees
created by the
disposition of
the commis-
sioner.

Enlargement of
base fees subse-
quent to the
sale or convey-
ance of the
same under the
bankrupt acts.

A voidable es-
tate created in
favour of a pur-
chaser by an
actual tenant
in tail becoming
bankrupt, or by
a tenant in tail
entitled to a
base fee be-
coming bank-
rupt, confirmed
by the disposi-
tion of the com-
missioner, if no

cution of any such fiat as aforesaid shall, under this act, dispose of lands not held by copy of court roll, shall be void unless inrolled in his Majesty's high court of chancery within six calendar months after the execution thereof; and every deed by which any commissioner acting in the execution of any such fiat as aforesaid shall, under this act, dispose of lands held by copy of court roll, shall be entered on the court rolls of the manor of which the lands may be parcel; and if there shall be a protector who shall consent to the disposition of such lands held by copy of court roll, and he shall give his consent by a distinct deed, the consent shall be void unless the deed of consent be executed by the protector either on or at any time before the day on which the deed of disposition shall be executed by the commissioner; and such deed of consent shall be entered on the court rolls; and it shall be imperative on the lord of every manor of which any lands disposed of under this act by any such commissioner as aforesaid may be parcel, or the steward of such lord, or the deputy of such steward, to enter on the court rolls of the manor every deed required by this present clause to be entered on the court rolls, and he shall indorse on every deed so entered a memorandum, signed by him, testifying the entry of the same on the court rolls.

LX. That if any commissioner acting in the execution of any such fiat as aforesaid shall, under this act, dispose of any lands of any tenure of which the bankrupt shall be actual tenant in tail, and in consequence of there being a protector of the settlement by which the estate of such actual tenant in tail was created, and of his not giving his consent, only a base fee shall by such disposition be created in such lands, and if at any time afterwards during the continuance of the base fee there shall cease to be a protector of such settlement, then and in such case, and immediately thereupon, such base fee shall be enlarged into the same estate into which the same could have been enlarged under this act if at the time of the disposition by such commissioner as aforesaid there had been no such protector.

LXI. That if a tenant in tail entitled to a base fee in lands of any tenure shall be adjudged a bankrupt at the time when there shall be a protector of the settlement by which the estate tail converted into the base fee was created, and if such lands shall be sold or conveyed under the said acts of the sixth year of king George the fourth and the first and second years of king William the fourth, or either of them, or any other acts hereafter to be passed concerning bankrupts, and if at any time afterwards during the continuance of the base fee in such lands there shall cease to be a protector of such settlement, then and in such case, and immediately thereupon, the base fee in such lands shall be enlarged into the same estate into which the same could have been enlarged under this act if at the time of the adjudication of such bankruptcy there had been no such protector, and the commissioner acting in the execution of the fiat under which the tenant in tail so entitled shall have been adjudged a bankrupt had disposed of such lands under this act.

LXII. Provided always, That where an actual tenant in tail of lands of any tenure, or a tenant in tail entitled to a base fee in lands of any tenure, shall have already created or shall hereafter create in such lands, or any of them, a voidable estate in favour of a purchaser for valuable consideration, and such actual tenant in tail, or tenant in tail so entitled as aforesaid, shall be adjudged a bankrupt under any such fiat as aforesaid, and the commissioner acting in the execution of such fiat shall make any disposition under this act of the lands in which such voidable estate shall be created, or any of them, then and in such case, if there shall be no protector of the settlement by which the estate tail of the actual tenant in tail, or the estate tail converted into a base fee, as the case may be, was created, or being such protector he shall consent to the disposition by such commissioner as aforesaid, whether such commissioner may have made under this act a previous disposition

of such lands or not, or whether a prior sale or conveyance of the same lands shall have been made or not under the said acts of the sixth year of king George the fourth and the first and second years of king William the fourth, or either of them, or any other acts hereafter to be passed concerning bankrupts, the disposition by such commissioner shall have the effect of confirming such voidable estate in the lands thereby disposed of to its full extent as against all persons except those whose rights are saved by this act; and if at the time of the disposition by such commissioner, in the case of an actual tenant in tail, there shall be a protector, and such protector shall not consent to the disposition by such commissioner, and such actual tenant in tail, if he had not been adjudged a bankrupt, would not without such consent have been capable under this act of confirming the voidable estate to its full extent, then and in such case such disposition shall have the effect of confirming such voidable estate so far as such actual tenant in tail, if he had not been adjudged a bankrupt, could at the time of such disposition have been capable under this act of confirming the same without such consent; and if at any time after the disposition of such lands by such commissioner, and while only a base fee shall be subsisting in such lands, there shall cease to be a protector of such settlement, and such protector shall not have consented to the disposition by such commissioner, then and in such case such voidable estate, so far as the same may not have been previously confirmed, shall be confirmed to its full extent as against all persons except those whose rights are saved by this act: Provided always, that if the disposition by any such commissioner as aforesaid shall be made to a purchaser for valuable consideration, who shall not have express notice of the voidable estate, then and in such case the voidable estate shall not be confirmed against such purchaser and the persons claiming under him.

LXIII. That all acts and deeds done and executed by a tenant in tail of lands of any tenure, who shall be adjudged a bankrupt under any such fiat as aforesaid, and which shall affect such lands or any of them, and which, if he had been seised of or entitled to such lands in fee simple absolute, would have been void against the assignees of the bankrupt's estate, and all persons claiming under them, shall be void against any disposition which may be made of such lands under this act by such commissioner as aforesaid.

LXIV. Provided always, That, subject and without prejudice to the powers of disposition given by this act to the commissioner acting in the execution of any such fiat as aforesaid under which a person being, or before obtaining his certificate becoming, an actual tenant in tail of lands of any tenure, or a tenant in tail entitled to a base fee in lands of any tenure shall be adjudged a bankrupt, and also subject and without prejudice to the estate in such lands which may be vested in the assignees of the bankrupt's estate, and also subject and without prejudice to the rights of all persons claiming under the said assignees in respect of such lands or any of them, such actual tenant in tail, or tenant in tail so entitled as aforesaid, shall have the same powers of disposition under this act in regard to such lands as he would have had if he had not become bankrupt.

LXV. That any disposition under this act of lands of any tenure by any commissioner acting in the execution of any such fiat as aforesaid under which a person being, or before obtaining his certificate becoming, an actual tenant in tail of such lands, or a tenant in tail entitled to a base fee in such lands shall be adjudged a bankrupt, shall, although the bankrupt be dead at the time of the disposition, be in the following cases as valid and effectual as the same would have been and have the same operation under this act as the same would have had, if the bankrupt were alive; (that is to say,) in case at the time of the bankrupt's decease there shall be no protector of the settlement by which the estate tail of the actual tenant in tail, or the estate tail converted into a base fee, as the case may be, was created; or in case the bankrupt had been an

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protector, or being such with his consent, or on there ceasing to be a protector; but not against a purchaser, without notice.

Acts of a bankrupt tenant in tail void against any disposition under this act by the commissioner.

Subject to the powers given to the commissioner, and to the estate in the assignees, a bankrupt tenant in tail shall retain his powers of disposition.

The disposition by the commissioner of the lands of a bankrupt tenant in tail shall, if the bankrupt be dead, have in the cases here- in mentioned the same operation as if he were alive.

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actual tenant in tail of such lands, and there shall at the time of the disposition be any issue inheritable to the estate tail of the bankrupt in such lands, and either no protector of the settlement by which the estate tail was created, or a protector of such settlement who, in the manner required by this act, shall consent to the disposition, or a protector of such settlement who shall not consent to the disposition; or in case the bankrupt had been a tenant in tail entitled to a base fee in such lands, and there shall at the time of the disposition be any issue who if the base fee had not been created would have been actual tenant in tail of such lands, and either no protector of the settlement by which the estate tail converted into a base fee was created, or a protector of such settlement who, in the manner required by this act, shall consent to the disposition.

Every disposition by the commissioner of copyhold lands where the estate shall not be equitable to have the same operation as a surrender; and the person to whom such land shall have been disposed of may claim to be admitted on paying the fines, &c.

LXVI. That every disposition which under this act may be made by any commissioner acting in the execution of any such fiat as aforesaid of lands held by copy of court roll shall, in every case in which the estate of the bankrupt in such lands shall not be merely an estate in equity, operate in the same manner as if such lands had, for the same estate which shall have been acquired by the disposition by such commissioner as aforesaid, been duly surrendered into the hands of the lord of the manor of which they may be parcel, to the use of the person to whom the same shall have been disposed of by such commissioner; and the person to whom the lands shall have been so disposed of by such commissioner may claim to be admitted tenant of such lands, to hold the same by the ancient rents, customs, and services, in the same manner as if such lands had been duly surrendered to his use into the hands of the lord of the manor of which such lands may be parcel, and shall, upon being admitted tenant of such lands, to hold the same as aforesaid, pay the fines, fees, and other dues which could have been lawfully demanded upon such admittance if such lands had, for the same estate which shall have been acquired by the disposition by such commissioner as aforesaid, passed by surrender into the hands of the lord, to the use of the person so admitted.

Assignees to recover rents of the lands of a bankrupt, of which the commissioner has power to make disposition, and to enforce covenants, as if entitled to the reversion. This clause to apply to all copyhold lands; but as to other lands, only to such as the commissioner may dispose of after the bankrupt's death.

11 G. 2, c. 19.

LXVII. That the rents and profits of any lands of which any commissioner acting in the execution of any such fiat as aforesaid hath power to make disposition under this act shall in the meantime and until such disposition shall be made, or until it shall be ascertained that such disposition shall not be required for the benefit of the creditors of the person adjudged bankrupt under the fiat, be received by the assignees of the estate of the bankrupt, for the benefit of his creditors; and the assignees may proceed by action of debt for the recovery of such rents and profits, or may distrain for the same upon the lands subject to the payment thereof, and in case any action of trespass shall be brought for taking any such distress may plead thereto the general issue, and give this act or other special matter in evidence, and also, in case any such distress shall be replevied, shall have power to avow or make cognizance generally in such manner and form as any landlord may now do by virtue of the statute made in the eleventh year of the reign of his Majesty king George the second, intituled *An Act for the more effectual securing the Payment of Rents and preventing Frauds by Tenants*, or by any other law or statute now in force or hereafter to be made for the more effectually recovering of rent in arrear; and such assignees, and their bailiffs, agents, and servants, shall also have all such and the same remedies, powers, privileges, and advantages of pleading, avowing, and making cognizance, and be entitled to the same costs and damages, and the same remedies for the recovery thereof, as landlords, their bailiffs, agents, and servants, are now or hereafter may be by law entitled to have when rent is in arrear; and such assignees shall also have the same power and authority of enforcing the observance of all covenants, conditions, and agreements in respect of the lands of which such commissioner as aforesaid hath the power of disposition under this act, and in respect of the rents and profits thereof, and of

entry into and upon the same lands for the nonobservance of any such covenant, condition, and agreement, and of expelling and amoving therefrom the tenants or other occupiers thereof, and thereby determining and putting an end to the estate of the persons who shall not have observed such covenants, conditions, and agreements, as the bankrupt would have had in case he had not been adjudged a bankrupt: Provided always, that this clause shall apply to all lands held by copy of court roll, but shall only apply to those lands of any other tenure which any commissioner acting in the execution of any such fiat as aforesaid may have power to dispose of under this act after the bankrupt's decease.

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LXVIII. That all the provisions in this act contained for the benefit of the creditors of persons who under such fiats as aforesaid shall be adjudged bankrupts after the thirty-first day of December one thousand eight hundred and thirty-three, and for the confirmation in consequence of bankruptcy of voidable estates created by them, shall extend and apply to the lands of any tenure in Ireland of such persons as fully and effectually as if this act had throughout extended to lands of any tenure in Ireland; saving always the rights of the king's most excellent Majesty, his heirs and successors, to any reversion or remainder in the crown in lands in Ireland.

All the provisions of the act in regard to bankrupts shall apply to their lands in Ireland.

LXIX. Provided always, That in all cases of bankruptcy, every deed of disposition under this act of lands in Ireland by any commissioner acting in the execution of any such fiat as aforesaid, and also every deed by which the protector of a settlement of lands in Ireland shall consent, shall be inrolled in his Majesty's high court of chancery in Ireland within six calendar months after the execution thereof, and not in his Majesty's high court of Chancery in England.

Deeds relating to the lands of bankrupts in Ireland to be inrolled in the court of chancery there.

LXX. That after the thirty-first day of December one thousand eight hundred and thirty-three an act passed in the seventh year of the reign of his late Majesty king George the Fourth, intituled *An Act for repealing an Act passed in the thirty-ninth and fortieth years of the Reign of his late Majesty King George the Third, intituled 'An Act for the Relief of Persons entitled to Entailed Estates to be purchased with Trust Monies,' and for making further Provision in lieu thereof;* shall be and the same is hereby repealed, except as to such proceedings under the act hereby repealed as shall have been commenced before the first day of January one thousand eight hundred and thirty-four, and which may be continued under the authority and according to the provisions of the act hereby repealed: Provided always, that the act repealed by the said act of the seventh year of the reign of his late Majesty king George the fourth shall not be revived.

Repeal of the statute 7 G. 4, c. 45, except as to proceedings commenced before 1st Jan. 1834.

LXXI. That lands to be sold, whether freehold or leasehold, or of any other tenure, where the money arising from the sale thereof shall be subject to be invested in the purchase of lands to be settled, so that any person, if the lands were purchased, would have an estate tail therein, and also money subject to be invested in the purchase of lands to be settled, so that any person, if the lands were purchased, would have an estate tail therein, shall for all the purposes of this act be treated as the lands to be purchased, and be considered subject to the same estates as the lands to be purchased would, if purchased, have been actually subject to; and all the previous clauses in this act, so far as circumstances will admit, shall, in the case of the lands to be sold as aforesaid being either freehold or leasehold, or of any other tenure, except copy of court roll, apply to such lands in the same manner as if the lands to be purchased with the money to arise from the sale thereof were directed to be freehold, and were actually purchased and settled; and shall, in the case of the lands to be sold as aforesaid being held by copy of court roll, apply to such lands in the same manner as if the lands to be purchased with the money to arise from the sale thereof were directed to be copyhold, and were actually purchased and settled; and shall, in the case of money subject to be invested in the purchase of lands to be

39 & 40 G. 3, c. 56, not to be revived.

The previous clauses, with certain variations, to apply to lands of any tenure to be sold, where the purchase money is subject to be invested in the purchase of lands to be entailed, and also to apply to money subject to be invested in like manner.

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so settled as aforesaid, apply to such money in the same manner as if such money were directed to be laid out in the purchase of freehold lands, and such lands were actually purchased and settled; save and except that in every case where under this clause a disposition shall be to be made of leasehold lands for years absolute or determinable, so circumstanced as aforesaid, or of money so circumstanced as aforesaid, such leasehold lands or money shall, as to the person in whose favour or for whose benefit the disposition is to be made, be treated as personal estate, and, except in case of bankruptcy, the assurance by which the disposition of such leasehold lands or money shall be effected shall be an assignment by deed, which shall have no operation under this act unless inrolled in his Majesty's high court of chancery within six calendar months after the execution thereof; and in every case of bankruptcy the disposition of such leasehold lands or money shall be made by the commissioner, and completed by inrolment in the same manner as herein-before required in regard to lands not held by copy of court roll.

Lands of any tenure in Ireland, to be sold, where the purchase money is subject to be invested in the purchase of lands to be entailed, and money under the control of a court of equity in Ireland, subject to be invested in like manner, to be subject to this act in cases of bankruptcy.

LXXII. That so far as regards any person adjudged a bankrupt under any such fiat as aforesaid, the provisions of the clause lastly herein-before contained shall, for the benefit of the creditors of the bankrupt, apply to lands in Ireland to be sold, whether freehold or leasehold, or of any other tenure, where the money arising from the sale thereof shall be subject to be invested in the purchase of lands to be settled so that the bankrupt, if the lands were purchased, would have an estate tail therein, and also to money under the control of any court of equity in Ireland, or of or to which any individuals as trustees may be possessed or entitled in Ireland, and which shall be subject to be invested in the purchase of lands to be settled so that the bankrupt, if the lands were purchased, would have an estate tail therein, as fully and effectually as if this act had throughout extended to Ireland: Provided always, that every deed to be executed by any commissioner or protector, in pursuance of this clause, in regard to lands in Ireland to be so sold as aforesaid, shall be inrolled in his Majesty's high court of chancery in Ireland within six calendar months after the execution thereof; but every deed to be executed by any commissioner or protector, in pursuance of this clause, in regard to money subject to be invested in the purchase of lands to be so settled as aforesaid, shall be inrolled in his Majesty's high court of chancery in England within six calendar months after the execution thereof, and not in his Majesty's high court of chancery in Ireland; saving always the rights of the king's most excellent Majesty, his heirs and successors, to any reversion or remainder in the crown in lands in Ireland to be sold.

As to deeds being acknowledged before inrolment.

LXXIII. That any rule or practice requiring deeds to be acknowledged before inrolment shall not apply to any deed by this act required to be inrolled in his Majesty's high court of chancery in England or Ireland.

Every deed to be inrolled by which lands or money shall be disposed of under this act, to take effect as if inrolment not required.

LXXIV. That every deed required to be inrolled in his Majesty's high court of chancery in England or Ireland, by which lands, or money subject to be invested in the purchase of lands, shall be disposed of under this act, shall, when inrolled as required by this act, operate and take effect in the same manner as it would have done if the inrolment thereof had not been required, except that every such deed shall be void against any person claiming the lands or money thereby disposed of, or any part thereof, for valuable consideration, under any subsequent deed duly inrolled under this act, if such subsequent deed shall be first inrolled.

The court of chancery to regulate the fees to be paid for the inrolment of deeds, &c.

LXXV. That it shall be lawful for his Majesty's high court of chancery in England, as to deeds to be inrolled in England under this act, and for his Majesty's high court of chancery in Ireland, as to deeds to be inrolled in Ireland under this act, from time to time to make such orders as the court shall think fit touching the amount of the fees and charges to be paid for the inrolment of such deeds, and to be paid for

searches for such deeds in the office of inrolments, and to be paid for copies of the inrolments of deeds under this act, where such copies are examined with the inrolments, and signed by the proper officer having the custody of such inrolments.

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LXXVI. That it shall be lawful for his Majesty's court of common pleas at Westminster from time to time to make such orders as the court shall think fit touching the amount of the fees and charges to be paid for the entries of deeds by this act required to be entered on the court rolls of manors, and for the indorsements thereon, and for taking the consents of the protectors of settlements of lands held by copy of court roll, where such consents shall not be given by deed, and for taking surrenders by which dispositions shall be made under this act by tenants in tail of lands held by copy of court roll, and for entries of such surrenders or the memorandums thereof on the court rolls.

The court of common pleas to regulate the fees for entries on court rolls and indorsements on deeds, and for taking consents, &c.

LXXVII. That after the thirty-first day of December one thousand eight hundred and thirty-three it shall be lawful for every married woman, in every case except that of being tenant in tail, for which provision is already made by this act, by deed to dispose of lands of any tenure, and money subject to be invested in the purchase of lands, and also to dispose of, release, surrender, or extinguish any estate which she alone, or she and her husband in her right, may have in any lands of any tenure, or in any such money as aforesaid, and also to release or extinguish any power which may be vested in or limited or reserved to her in regard to any lands of any tenure, or any such money as aforesaid, or in regard to any estate in any lands of any tenure, or in any such money as aforesaid, as fully and effectually as she could do if she were a feme sole; save and except that no such disposition, release, surrender, or extinguishment shall be valid and effectual unless the husband concur in the deed by which the same shall be effected, nor unless the deed be acknowledged by her as herein-after directed: Provided always, That this act shall not extend to lands held by copy of court roll of or to which a married woman, or she and her husband in her right, may be seised or entitled for an estate at law, in any case in which any of the objects to be effected by this clause could before the passing of this act, have been effected by her, in concurrence with her husband, by surrender into the hands of the lord of the manor of which the lands may be parcel.

A married woman, with her husband's concurrence, to dispose of lands and money subject to be invested in the purchase of lands, and of any estate therein; and to release and extinguish powers as a feme sole.

Not to extend to copyholds in certain cases.

LXXVIII. Provided always, That the powers of disposition given to a married woman by this act shall not interfere with any power which, independently of this act, may be vested in or limited or reserved to her, so as to prevent her from exercising such power in any case, except so far as by any disposition made by her under this act she may be prevented from so doing in consequence of such power having been suspended or extinguished by such disposition.

The powers of disposition given to a married woman by this act not to interfere with any other powers.

LXXIX. That every deed to be executed by a married woman for any of the purposes of this act, except such as may be executed by her in the character of protector for the sole purpose of giving her consent to the disposition of a tenant in tail, shall, upon her executing the same, or afterwards, be produced and acknowledged by her as her act and deed before a judge of one of the superior courts at Westminster, or a master in chancery, or before two of the perpetual commissioners, or two special commissioners, to be respectively appointed as herein-after provided.

Every deed by a married woman not executed by her as protector, to be acknowledged by her before a judge, &c.

LXXX. That such judge, master in chancery, or commissioners as aforesaid, before he or they shall receive the acknowledgment by any married woman of any deed by which any disposition, release, surrender, or extinguishment shall be made by her under this act, shall examine her, apart from her husband, touching her knowledge of such deed, and shall ascertain whether she freely and voluntarily consents to such deed, and unless she freely and voluntarily consent to such deed shall not permit her to acknowledge the same; and in such case

The judge, &c. before receiving such acknowledgment, to examine her apart from her husband.

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As to the appointment of perpetual commissioners for each county or place, and the making out and keeping of the lists of the commissioners and the delivery of copies.

Power of perpetual commissioners not confined to any particular place.

If, from being beyond seas, &c. a married woman be prevented from making the acknowledgment, special commissioners to be appointed.

When a married woman shall acknowledge a deed, the person taking the acknowledgment to sign a memorandum to the effect here mentioned,

such deed shall, so far as relates to the execution thereof by such married woman, be void.

LXXXI. That for the purpose of providing convenient means of taking acknowledgments by married women of the deeds to be executed by them as aforesaid, the lord chief justice of the court of common pleas at Westminster shall from time to time appoint such proper persons as he shall think fit, for every county, riding, division, soke, or place for which there may be a clerk of the peace, to be perpetual commissioners for taking such acknowledgments, and such commissioners shall be removable by and at the pleasure of the said lord chief justice; and lists of the names of such commissioners for the time being, with the names of their places of residence, and the counties, ridings, divisions, sokes, or places, for which they shall be respectively appointed to act, shall from time to time be made out and be kept by the officer of the court of common pleas at Westminster with whom the certificates of the acknowledgments by married women are to be lodged as herein-after mentioned; and such officer shall from time to time transmit, without fee or reward, to the clerk of the peace for each county, riding, division, soke, or place, or his deputy, a copy of the list to be so from time to time made out for that county, riding, division, soke, or place, and such officer shall deliver a copy, signed by him, of the list for the time being for any county, riding, division, soke, or place, to any person applying for the same; and the clerk of the peace for each county, riding, division, soke, or place, or his deputy, shall deliver a copy, signed by him, of the list last transmitted to him as aforesaid to any person applying for the same.

LXXXII. Provided always, That any person appointed commissioner for any particular county, riding, division, soke, or place, shall be competent to take the acknowledgment of any married woman wheresoever she may reside, and wheresoever the lands or money in respect of which the acknowledgment is to be taken may be.

LXXXIII. That in those cases where, by reason of residence beyond seas, or ill-health, or any other sufficient cause, any married woman shall be prevented from making the acknowledgment required by this act before a judge or a master in chancery, or any of the perpetual commissioners to be appointed as aforesaid, it shall be lawful for the court of common pleas at Westminster, or any judge of that court, to issue a commission specially appointing any persons therein named to be commissioners to take the acknowledgment by any married woman to be therein named of any such deed as aforesaid: Provided always, That every such commission shall be made returnable within such time, to be therein expressed, as the said court or judge shall think fit.

LXXXIV. That when a married woman shall acknowledge any such deed as aforesaid, the judge, master in chancery, or commissioners taking such acknowledgment shall sign a memorandum, to be indorsed on or written at the foot or in the margin of such deed, which memorandum, subject to any alteration which may from time to time be directed by the court of common pleas, shall be to the following effect; *videlicet*,

‘ THIS deed, marked [*here add some letter or other mark, for the purpose of identification,*] was this day produced before me [*or us*] and
‘ and acknowledged by therein named to be her act and
‘ deed; previous to which acknowledgment the said was
‘ examined by me [*or us*], separately and apart from her husband,
‘ touching her knowledge of the contents of the said deed and her con-
‘ sent thereto, and declared the same to be freely and voluntarily executed by her.’

and also sign a certificate of And the same judge, master in chancery, or commissioners shall also sign a certificate of the taking of such acknowledgment, to be written

or engrossed on a separate piece of parchment; which certificate, subject to any alteration which may from time to time be directed by the court of common pleas, shall be to the following effect; *videlicet*,

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THESE are to certify, That on the _____ day of _____ in the year one thousand eight hundred and _____ before me the undersigned Sir Nicholas Conyngham Tindal, lord chief justice of the court of common pleas at Westminster, [or before me Sir James Parke knight, one of the justices of the court of king's bench at Westminster; or before me the undersigned James William Farrer, one of the masters in ordinary of the court of chancery; or before us A. B. _____ and C. D. _____] two of the perpetual commissioners appointed for the _____ for taking the acknowledgments of deeds by married women, pursuant to an act passed in the _____ year of the reign of his Majesty king William the fourth, intituled *An Act [insert the title of this act]*; or before us the undersigned A. B. _____ and C. D. _____ two of the commissioners specially appointed pursuant to an act passed in the _____ year of the reign of his Majesty king William the fourth, intituled *An Act, [insert the title of this act,]* for taking the acknowledgment of any deed by _____ the wife of _____ appeared personally _____ the wife of _____ and produced a certain indenture, marked [here add the mark], bearing date the _____ day of _____ and made between [insert the names of the parties], and acknowledged the same to be her act and deed: And I [or we] do hereby certify, that the said _____ was, at the of her acknowledging the said deed, of full age and competent understanding, and that she was examined by me [or us], apart from her husband, touching her knowledge of the contents of the said deed, and that she freely and voluntarily consented to the same.

the taking of such acknowledgment to the effect here mentioned.

LXXXV. That every such certificate as aforesaid of the taking of an acknowledgment by a married woman of any such deed as aforesaid, together with an affidavit by some person verifying the same, and the signature thereof by the party by whom the same shall purport to be signed, shall be lodged with some officer of the court of common pleas at Westminster, to be appointed as herein-after mentioned; and such officer shall examine the certificate, and see that it is duly signed, either by some judge or master in chancery, or by two commissioners appointed pursuant to this act, and duly verified by affidavit as aforesaid, and shall also see that it contains such statement of particulars as to the consent of the married woman as shall from time to time be required in that behalf; and if all the requisites in this act in regard to the certificate shall have been complied with, then such officer shall cause the said certificate and the affidavit to be filed of record in the said court of common pleas.

LXXXVI. That when the certificate of the acknowledgment of a deed by a married woman shall be so filed of record as aforesaid, the deed so acknowledged shall, so far as regards the disposition, release, surrender, or extinguishment thereby made by any married woman whose acknowledgment shall be so certified concerning any lands or money comprised in such deed, take effect from the time of its being acknowledged, and the subsequent filing of such certificate as aforesaid shall have relation to such acknowledgment.

On filing certificate, the deed, by relation, to take effect from time of acknowledgment.

LXXXVII. That the officer of the court of common pleas with whom such certificates as aforesaid shall be lodged shall make and keep an index of the same, and such index shall contain the names of the married women and their husbands alphabetically arranged, and the dates of such certificates and of the deeds to which the same shall respectively relate, and such other particulars as shall be found convenient; and

The officer with whom the certificates are lodged to make an index of the same.

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Officer to deliver a copy of certificate filed, which shall be evidence.

Chief justice of common pleas to appoint the officer with whom the certificates shall be lodged; and the court to make orders touching the examination, memorandums, certificates, affidavits, &c.

A married woman to be separately examined on the surrender of an equitable estate in copyholds as if such estate were legal.

Court of common pleas in the case of a husband being lunatic, &c. may dispense with his concurrence, except where the lord chancellor or other persons intrusted with lunatics, or the court of chancery, shall be the protector of

every such certificate shall be entered in the index as soon as may be after such certificate shall have been filed.

LXXXVIII. That after the filing of any such certificate as aforesaid the officer with whom the certificate shall be lodged shall at any time deliver a copy, signed by him, of any such certificate to any person applying for such copy; and every such copy shall be received as evidence of the acknowledgment of the deed to which such certificate shall refer.

LXXXIX. That the lord chief justice of the court of common pleas at Westminster shall from time to time appoint the person who shall be the officer with whom such certificates as aforesaid shall for the time being be lodged, and may remove him at pleasure; and the court of common pleas at Westminster shall also from time to time make such orders and regulations (1) as the court shall think fit touching the mode of examination to be pursued by the commissioners to be appointed under this act, and touching the particular matters to be mentioned in such memorandums and certificates as aforesaid, and the affidavits verifying the certificates, and the time within which any of the aforesaid proceedings shall take place, and touching the amount of the fees or charges to be paid for the copies to be delivered by the clerks of the peace or their deputies, or by the officer of the said court, as hereinbefore directed, and also of the fees or charges to be paid for taking acknowledgments of deeds and for examining married women, and for the proceedings, matters, and things required by this act to be had, done, and executed for completing and giving effect to such acknowledgments and examinations. (2)

XC. That in every case in which a husband and wife shall, either in or out of court, surrender into the hands of the lord of a manor any lands held by copy of court roll, parcel of the manor, and in which she alone, or she and her husband in her right, may have an equitable estate, the wife shall, upon such surrender being made, be separately examined by the person taking the surrender in the same manner as she would have been if the estate to which she alone, or she and her husband in her right, may be entitled in such lands were an estate at law instead of a mere estate in equity; and every such surrender, when such examination shall be taken, shall be binding on the married woman and all persons claiming under her; and all surrenders heretofore made of lands similarly circumstanced, where the wife shall have been separately examined by the person taking the surrender, are hereby declared to be good and valid.

XCI. Provided always, That if a husband shall in consequence of being a lunatic, idiot, or of unsound mind, and whether he shall have been found such by inquisition or not, or shall from any other cause be incapable of executing a deed, or of making a surrender of lands held by copy of court roll, or if his residence shall not be known, or he shall be in prison, or shall be living apart from his wife, either by mutual consent or by sentence of divorce, or in consequence of his being transported beyond the seas, or from any other cause whatsoever, it shall be lawful for the court of common pleas at Westminster, by an order to be made in a summary way upon the application of the wife, and upon such evidence as to the said court shall seem meet, to dispense with the concurrence of the husband in any case in which his concurrence is required by this act or otherwise; and all acts, deeds, or surrenders to be done, executed, or made by the wife in pursuance of such order, in regard to lands of any tenure, or in regard to money subject to be

(1) See the rules at the end of the act.

(2) Mr. Thomas Sherwood, of the Prothonotaries' Office, Tanfield-court, Temple, has been appointed the officer with and by whom the certificates of the acknowledgment of married women are to be lodged and filed.

invested in the purchase of lands, shall be done, executed, or made by her in the same manner as if she were a feme sole, and when done, executed, or made by her shall (but without prejudice to the rights of the husband as then existing independently of this act) be as good and valid as they would have been if the husband had concurred: Provided always, That this clause shall not extend to the case of a married woman where under this act the lord high chancellor, lord keeper or lords commissioners for the custody of the great seal, or other the person or persons intrusted with the care and commitment of the custody of the persons and estates of persons found lunatic, idiot, and of unsound mind, or his Majesty's high court of chancery, shall be the protector of a settlement in lieu of her husband.

No. I.
3 & 4 W. 4,
c. 74.

settlement in
lieu of the
husband.

XCII. That this act shall not extend to Ireland, except where the Ireland. same is expressly mentioned. (1)

[Special orders were made by the judges of the common pleas in pursuance of the above act in Michaelmas term 1833, but were revoked and superseded by the following rules of Hilary term 1834 :—

WHEREAS it has been found expedient to make alterations in the general rules made in Michaelmas term last by this court, for the purpose of carrying into effect the statute passed in the third and fourth years of the reign of his present Majesty, cap. 74, intituled *An Act for the Abolition of Fines and Recoveries, and for the substitution of more simple modes of Assurance.*

And whereas it is necessary to make orders touching the amount of the reasonable fees and charges to be taken by the several persons appointed to carry the powers of the said act into execution; and it will be convenient that all the orders and regulations made by the court under the said act should be contained in the same rule:

Now it is hereby ordered, That the said general rules be and the same are hereby revoked: Provided that this present rule shall not be construed in any respect to invalidate any proceedings which before the first day of March next ensuing, shall have been taken pursuant to the direction of the said rules of Michaelmas term last.

And it is hereby further ordered, That where any acknowledgment shall be made by any married woman of any deed under and by virtue of the said act, before commissioners appointed under the said act, one at least of the said commissioners shall be a person who is not in any manner interested in the transaction giving occasion for such acknowledgment or concerned therein, as attorney, solicitor, or agent, or as clerk to any attorney, solicitor, or agent so interested or concerned.

And it is further ordered, That before the commissioners shall receive such acknowledgment, they or in case one of them shall be interested or concerned as aforesaid, then such one of them as shall not be so interested or concerned do inquire of every married woman separately and apart from her husband, and from the attorney or solicitor concerned in the transaction, whether she intends to give up her interest in the estate to be passed by such deed, without having any provision made for her in lieu of, or in return for, or in consequence of her so giving up such interest; and where such married woman in answer to such inquiry shall declare that she intends to give up such her interest without any provision, and the said commissioners shall have no reason to doubt the truth of such declaration and shall verily believe the same to be true, then they shall proceed to receive the said acknowledgment; but if it shall appear to them or to such one of them as aforesaid, that

(1) By the 4 & 5 W. IV. c. 92, the provisions of this act have been extended to Ireland, with the omission of sections 4, 5, and 6, relating to lands held by ancient demesne, and sections 51, 52, 53, 54, 66, 76, and 90, relating to copyholds.

No. I.
3 & 4 W. 4,
c. 74.

it is intended that provision is to be made for any such married woman, then the commissioners shall not take her acknowledgment until they are satisfied that such provision has been actually made by some deed, or writing produced to them, or if such provision shall not have been actually made before, then the commissioners shall require the terms of such intended provision to be shortly reduced into writing, and shall verify the same by their signatures in the margin, at the foot, or at the back thereof.

And it is hereby further ordered, That the affidavit verifying the certificate to be made pursuant to the said act, and which certificate shall be in the form contained in the said act shall (except in such cases where the acknowledgment shall be taken elsewhere than in England, Wales or Berwick-upon-Tweed) be made by some practising attorney or solicitor of one of the courts at Westminster, or of one of the counties palatine of Lancaster or Durham, and that in all cases it shall be deposed in addition to the verification of the said certificate, that the deponent (or if more than one person join in the affidavit), that one or more of the deponents knew the person or persons making such acknowledgment: and that at the time of making such acknowledgment, the person or persons making the same was or were of full age and competent understanding; and that one at least of the commissioners taking such acknowledgment, to the best of his deponent's knowledge and belief, is not in any manner interested in the transaction giving occasion for the taking of such acknowledgment, or concerned therein, as attorney, solicitor or agent, or as clerk to any attorney, solicitor or agent so interested or concerned; and that the names and residences of the said commissioners, and also the place or places where such acknowledgment or acknowledgments shall be taken, shall be set forth in such affidavit: And that previously to such acknowledgment being taken, the deponent had inquired of such married woman (or if more than one of each of such married women), whether she intended to give up her interest in the estate to be passed? and also the answer given thereto; and where any such married woman in answer to such inquiry shall declare that she intends to give up her interest without any provision, the deponent shall state that he has no reason to doubt the truth of such declaration, and he verily believes the same to be true. And where any provision has been agreed to be made, the deponent shall state that the same has been made by deed or writing, or if not actually made before, that the terms of the intended provision have been reduced into writing, which deed or writing he verily believes has been produced to the said (judge) (master, or) commissioners.

And it is hereby further ordered, That the affidavit shall state the parish or several parishes, or place or several places, and the county or counties in which the several premises wherein any such married woman shall appear to be interested shall by deed be described to be situate.

And it is hereby further ordered, That the affidavit shall be in the form hereunto annexed, subject to such variations as the circumstances of the case shall render necessary, or such affidavit may be made where it is found convenient by one of the said commissioners, with such variation in the form thereof as shall be necessary in that behalf.

And it is hereby further ordered, that the certificates and affidavits verifying the same shall, within one month from the making the acknowledgment, be delivered to the proper officer appointed under the said act; and that the officer shall not after that time receive the same without the direction of the court or a judge.

And it is hereby further ordered, That the fees or charges to be paid for the copies to be delivered by the clerks of the peace, or their deputies, or by the officer of the said court, and for taking acknowledgments of deeds, and for examining married women, and for the proceedings, matters and things required by the said act to be had, done,

and executed, for completing and giving effect to such acknowledgments and examinations, shall be as follows :

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	£	s.	d.
To a judge or master for taking the acknowledgment of every married woman, of which 7s. 6d. will be paid in the case of a judge, to his clerk, and the residue thereof will be paid over to the treasury ; and in the case of a master, the whole will be paid over to the treasury, or the fee fund account of the court of chancery	1	6	8
To the two perpetual commissioners for taking the acknowledgment of every married woman, when not required to go further than a mile from their residence, being 13s. 4d. for each commissioner	1	6	8
To each commissioner, when required to go more than one mile, but not exceeding three miles, besides his reasonable travelling expenses	1	1	0
To each commissioner, where the distance required shall exceed three miles, besides his reasonable travelling expenses	2	2	0
To the clerk of the peace, or his deputy, for every search	0	1	0
To the same, for every copy of a list of commissioners, provided such list shall not exceed the number of 100 names. .	0	5	0
To the same, for every further complete number of 50 names, an additional	0	2	6
To the officer, for every search	0	1	0
To the same, for every official copy of the certificate	0	2	6
To the same, for every official copy of a list of commissioners, provided such list shall not exceed the number of 100 names	0	5	0
To the same, for every further complete number of 50 names additional	0	2	6
To the same, for preparing every special commission, including a fee of 5s. to the clerk of the chief justice or other judge for the fiat	0	15	0
To the same, for examining the certificate and affidavit, and filing and indexing the same, as required by the said act of the 3rd and 4th William 4, cap 74.	0	5	0

And it is hereby further ordered, that the fees and charges to be paid for the entries of deeds, required by the said act to be entered on the court rolls of manors, and for the indorsements thereon, and for taking the consents of the protectors of settlements of land held by copy of court roll, where such consents shall not be given by deed, and for taking surrenders, by which dispositions shall be made under the said act, by tenants in tail of lands held by copy of court roll, and for entries of such surrenders, or the memorandums thereof, on the court rolls, shall be as follows :—

	£	s.	d.
For the indorsements on the deed of the memorandum of production, and memorandum of entry on court rolls, to be signed by the lord steward or deputy steward, each indorsement of memorandum 5s., together	0	10	0
For the entries on the court rolls of deeds, and the indorsements thereon, at per folio of 72 words	0	0	6
For taking the consent of each protector of settlement of lands	0	13	4
For taking the surrender by each tenant in tail of lands.	0	13	4
For entries of such surrenders, or the memorandums thereof, on the court rolls, at per folio of 72 words.	0	0	6

N. C. TINDAL.
J. A. PARK.
J. B. BOSANQUET.
E. H. ALDERSON.

No. I.
3 & 4 W. 4,
c. 74.

FORM OF AFFIDAVIT verifying the certificate of acknowledgment taken in pursuance of the act of parliament to be made by some practising attorney or solicitor, and to be sworn before a judge of the court of common pleas, or a commissioner appointed for taking affidavits in the said court.

In the common pleas—

A. B. of _____ in the _____ of _____ gentleman, one of the attornies [or solicitors] of the court of _____ maketh oath and saith that he knows _____ the wife of _____ in the certificate hereunto annexed mentioned, and that the acknowledgment therein mentioned was made by the said _____ and the certificate signed by the judge or master, or by *A. B.* of &c. and *C. D.* of &c. the commissioners in the said certificate mentioned, on the day and year therein mentioned, at _____ in the _____ of _____ in the presence of this deponent, and that at the time of making such acknowledgment the said _____ was of full age and competent understanding, and that the said _____ knew the said acknowledgment was intended to pass her estate in the premises, respecting which such acknowledgment was made. [*And this deponent further saith, that to the best of this deponent's knowledge and belief, neither of the said commissioners is (or the said A. B. or the said C. D. one of the said commissioners is not) in any manner interested in the transaction giving occasion for such acknowledgment, or concerned therein as attorney, solicitor, or agent, or as clerk to any attorney, solicitor, or agent, so interested or concerned.*] And this deponent further saith, that previous to the said _____ [the married woman] making the said acknowledgment, he this deponent inquired of the said _____ [the married woman] or if more than one, of each of them the said _____ and _____ [the married women] whether she intended to give up her interest in the estates, in respect of which such acknowledgment was taken without having any provision made for her in lieu of or in return for, or in consequence of her so giving up her interest in such estates, and that in answer to such inquiry the said _____ [the married woman] declared that she did intend to give up her interest in the said estates without having any provision made for her in lieu of, or in return for, or in consequence of her so giving up such her interest; of which declaration of the said _____ [the married woman] this deponent has no reason to doubt the truth, and verily believes the same to be true, or declared that a provision was to be made for her in consequence of her giving up such her interest in the said estates. And this deponent lastly saith, that before her acknowledgment was so taken, he was satisfied, and does now verily believe that such provision has been made by deed or writing, or that the terms thereof have been reduced into writing, and that such deed or writing has been produced to the said judge, master, or commissioners. And lastly this deponent saith, that it appears by the deed acknowledged by the said _____ [the married woman] that the premises wherein she is stated to be interested are described to be in the parish or place of _____ or parishes or places of _____ and _____ in the county of _____ of _____ or counties [as the case may be].

Sworn, &c.

This is to be omitted when acknowledgment taken by a judge or master.

N. B. When the whole of the facts cannot be spoken to by one deponent, variations may be made to enable more than one deponent to state their respective parts of the affidavit.

No. I.
5 & 6 W.
c. 74.

The following additional rules were made in Trinity term 1834 :

" It is ordered, That from and after the last day of this term, where such parts of the affidavit, verifying the certificate of acknowledgment, taken in pursuance of the late act of parliament respecting fines and recoveries, as state the deponent's knowledge of the party making the acknowledgment, and her being of full age, cannot be deposed by a commissioner, or by an attorney or solicitor, the same may be deposed to by some other person, whom the person before whom the affidavit shall be made shall consider competent so to do.

" And it is further ordered, That where more than one married woman shall at the same time acknowledge the same deed respecting the same property, the fees directed by the said rules to be taken, shall be taken for the first acknowledgment only.

" And the fees to be taken for the other acknowledgment or acknowledgments, how many soever the same may be, shall be one half of the original fees, and so also where the same married woman shall at the same time acknowledge more than one deed respecting the same property.

" And where, in either of the above cases, there shall be more than one acknowledgment, all such acknowledgments may be included in one certificate and affidavit.

" In every case the acknowledgment of a lease and release shall be considered and paid for as one acknowledgment only."

PART II.

CLASS XI.

WILLS.

[In 1833, the real property commissioners made a report upon the subject of wills, to which they appended a variety of propositions, one of their principal objects being the reduction of the law to a uniform standard with respect to the execution and time of operation of wills of real and personal estate. A bill founded upon their report passed the House of Commons during the last year, and it will, in all probability, be again brought forward in the ensuing session.

For the act disposing of the residues of the personal estates of testators not bequeathed by their wills, see Part III., Class XIII. *Executors.*]

PART II.

CLASS XII.

LAND REVENUE OF THE CROWN.

[No. I.] 1 & 2 W. IV. c. 5.—An Act to enable his Majesty to make Leases, Copies, and Grants of Offices, Lands, and Hereditaments, Parcel of the Duchy of Cornwall, or annexed to the same. [30th July 1831.]

WHEREAS his most excellent Majesty now stands seised of the duchy of Cornwall and the possessions thereof: And whereas some doubts may arise in relation to his Majesty's making of leases and grants of offices, lands, and hereditaments, parcel of his said duchy, or thereunto annexed or belonging: For obviating whereof, and for the ease and quiet of the minds of such persons as have taken or shall hereafter take leases from his said most excellent Majesty, and to the end that such persons may be sure to have good and indefeasible estates, and be encouraged to lay out monies in building and repairing or otherwise improving the several lands and tenements to them demised or to be demised; be it therefore enacted, That during such time as the said duchy of Cornwall shall remain vested in his Majesty, it shall and may be lawful for his Majesty, from time to time, by warrant under his sign manual, to be counter-signed by any three or more of the commissioners of his Majesty's treasury of the United Kingdom of Great Britain and Ireland, to authorize such and so many of the regular officers of the said duchy, who by virtue of their several appointments and offices are concerned in the general superintendence and management of the revenues and affairs of the said duchy, being not more than five and not less than three in number, as his Majesty may think fit, to demise or lease, in his Majesty's name and on his Majesty's behalf, by deed under the hands and seals of any two or more of them, all and every the manors, messuages, parks, tenements, lands, and hereditaments, parcels of the possessions of the said duchy of Cornwall, or annexed to the same, provided that the lessee or lessees in such leases respectively to be named do and shall duly execute a counterpart or counterparts of the lease or leases so to be made to him, her, or them respectively; and also to constitute and appoint, in his Majesty's name and on his Majesty's behalf, by deed or other instrument executed by any two or more of them, all such persons as shall be specially named by his Majesty to be stewards, commissioners for assessing the ancient duchy lands and tenements, or other officers of the said duchy, during his Majesty's pleasure, and also to pass the accounts of all receivers, bailiffs, and collectors accounting for the revenues of the said duchy; and all such leases or grants so made or to be made of any manors, messuages, parks, tenements, lands, or hereditaments, by virtue of such warrant, shall be good and effectual in law, according to the purport and contents thereof, against our sovereign lord the king, his heirs and successors, and against all and every other person or persons that shall at any time hereafter have, inherit, or enjoy the said duchy, by force of any act of parliament, or by other limitations whatsoever: Provided always that every such lease or grant so made or to be made of any manors, messuages, parks, tenements, lands, or hereditaments, in pos-

His Majesty may authorize certain persons to grant leases, &c. of lands and execute appointments in the duchy of Cornwall.

Terms of leases.

session, be and shall be made for three lives or fewer, or for thirty-one years or under, or for some term of years determinable upon one, two or three lives, and not above; and if any such lease or grant be made in reversion or expectancy, that then the same, together with the estates in possession, do not exceed three lives or the term of thirty-one years, and be not in any wise dispunishable of waste; and so as upon every such lease or grant there be or shall be reserved the ancient or most usual rent or more, or such rent as hath been reserved, yielded, or paid for such of the premises as are or shall be contained therein for the greater part of twenty years next before the making of the said leases or grants, and shall be reserved, due, and payable to such as have the inheritance or other estate of the said duchy; and where no such rent hath been reserved or payable, that then upon every such lease or grant there be or shall be reserved a reasonable rent not being under the twentieth part of the clear yearly value of the manors, messuages, parks, tenements, lands, or hereditaments contained in such lease or grant.

No. I.
1 & 2 W. 4,
c. 5.

II. And whereas certain parts of the said duchy are capable of considerable improvement, by the erection of substantial buildings thereon, and by the cultivation of waste lands, which cannot be undertaken by the lessees unless they are secured by the longer interest in the premises than thirty-one years, or a term of years determinable upon three lives: be it further enacted, That it shall be lawful for the said officers of the said duchy to be named in his Majesty's said warrant, and they are hereby empowered, by deed under the hands and seals of any two or more of them, to demise, lease, or grant any lands, tenements, or hereditaments, parcel of the possessions of the said duchy of Cornwall, or annexed to the same, for any term of years not exceeding the term of ninety-nine years, expressly for the purpose of improving the same by erecting substantial buildings thereon, or for the purpose of improving waste lands by cultivation or otherwise; provided that the lessee or lessees in such leases or grants respectively to be named do and shall duly execute a counterpart or counterparts of the lease or leases so to be made to him, her, or them respectively; and further provided, that upon all such leases or grants so to be made improved annual ground-rents be reserved and made payable, and that in all such cases of leases or grants so to be made for terms exceeding thirty-one years, or exceeding the usual term determinable upon three lives, no fines or other consideration be taken, further or other than the improved annual ground-rents hereby directed to be reserved as aforesaid.

Leases may be granted for building, or improving wastes.

III. Provided always, That the terms and conditions of all leases and grants to be granted or made under the provisions of this act shall be previously approved by the commissioners of his Majesty's treasury, or any three or more of them.

Leases to be previously approved by the treasury.

IV. That all covenants, conditions, reservations, and agreements contained in every such lease or grant made or to be made as aforesaid shall be good and effectual in law according to the words and intent of the same, as well for and against them to whom the reversion of the said manors, messuages, parks, tenements, lands, or hereditaments shall come as for and against them to whom the interest of such leases or grants shall come respectively, as if our sovereign lord the king's Majesty's, at the time of making such covenants, conditions, reservations, and agreements, had been or were seised of an absolute estate in fee simple in the same manors, messuages, parks, tenements, lands, or hereditaments.

Covenants to be effectual in law according to their contents.

V. Saving always to all and every person and persons, bodies politic and corporate, their heirs and successors, executors administrators, and assigns, (other than his said Majesty, his heirs and successors and other than the duke and dukes of Cornwall for the time being, and his and their heirs, their lessees, and all and every other person and persons that shall hereafter have, inherit, and enjoy the said duchy of Cornwall, by force of any act of parliament or other limitation whatsoever,) all such rights, titles, estates, customs, interests, tenures, terms, claims, and

General saving.

No. 1.
1 & 2 W. 4,
c. 5.

demands whatsoever, of what nature, kind, or quality soever, of, in, to, or out of the said manors, offices, messuages, parks, tenements, lands, or hereditaments, or any of them, parcel of or annexed to the said duchy of Cornwall, as they or any of them had or ought to have had before the making of this act, to all intents and purposes, and in as large and ample manner and form, as if this act had never been made; this act, or any other thing therein contained, to the contrary notwithstanding.

[No. II.] 1 & 2 W. IV. c. 12.—An Act for ascertaining the Boundaries of the Forest of Dean, and for inquiring into the Rights and privileges claimed by Free Miners of the Hundred of Saint Briavel's, and for other Purposes. (1)

[2nd August 1831.]

WHEREAS the boundaries of his Majesty's forest of Dean in the county of Gloucester, and of the lands of his Majesty's subjects within the same, are in some parts disputed, and in other parts not clearly ascertained and distinguished; and purprestures, encroachments, and trespasses to a great extent have been made on the soil of his Majesty within the said forest; and certain persons born within the hundred of Saint Briavel's, within the boundaries of the said forest, calling themselves free miners, claim certain rights and privileges in all lands and grounds lying within the perambulation and regard of the said forest and lands adjoining thereto, other than certain inclosures for the time they shall continue inclosed, the existence, origin, and particulars of which rights and privileges have never been sufficiently inquired into by any person or persons having competent powers to carry on such inquiry, and are not clearly ascertained and defined: And whereas it is desirable that the constitution, powers, jurisdiction, and practice of a court called the Mine Law Court, and also of a court called Saint Briavel's Court, and the management of the prison belonging to the same court, should be inquired into and ascertained; and it is also desirable that the expediency of erecting into a parish or parishes, or uniting to some existing parish or parishes, the said forest of Dean, and the lands lying within the perambulation and regard of the said forest, or such parts thereof respectively as are extra-parochial, should be inquired into and ascertained: Be it therefore enacted, &c. That it shall be lawful for his Majesty to issue or cause to be issued one or more commission or commissions, under the great seal of Great Britain, or under the seal of his Majesty's court of exchequer at Westminster, and thereby to appoint commissions for the purposes of this act, and to authorize and empower the said commissioners so to be appointed, or any two of them, to inquire of, ascertain, and distinguish, in manner herein-after mentioned, the boundaries of the said forest called the forest of Dean, and of the lands of his Majesty's subjects within the same; and to inquire of the purprestures, encroachments, and trespasses on the soil of his Majesty within the boundaries of the said forest; and also to inquire, in manner herein-after mentioned, of the existence, origin, and particulars of the rights and privileges claimed by the persons born within the hundred of Saint Briavel's aforesaid, calling themselves free miners; and the said commissioners, or any two of them, shall and may and they are hereby authorized and empowered to meet at such time and at such place within the said county of Gloucester as they or any two of them shall appoint, and then and there, by the testimony of witnesses upon oath (which oath any one of the said commis-

His Majesty
may appoint
commissioners
of inquiry.

(1) See the 3 & 4 W. 4, c. 38, and 4 & 5 W. 4, c. 59, *post*.

sioners is hereby empowered to administer), and by the inspection and examination of records, deeds, and writings, or by any other legal proof or evidence, to inquire of and ascertain the boundaries of the said forest, and of the lands and grounds belonging to his Majesty within the same, and the boundaries between lands belonging to his Majesty and lands of any of his Majesty's subjects; and in like manner to inquire of and examine all claims or titles that shall or may be made to any lands, tenements, or hereditaments which shall be claimed on behalf of his Majesty, as purprestures, encroachments, or trespasses in or upon the soil of his Majesty within the said forest; and also to receive and deliberate upon offers and proposals for compromising or settling any disputes between his Majesty and any other person or persons, touching the boundaries of the said forest, or of any lands or tenements claimed by any of his Majesty's subjects within the same, or touching any right, title or interest claimed by any of his Majesty's subjects to or in any such lands or tenements; and also to carry on and prosecute all such other inquiries as shall enable the said commissioners from time to time to make reports touching the premises, in manner herein-after mentioned; and in like manner to inquire of the origin of the rights and privileges claimed by the persons calling themselves free miners as aforesaid, and to inquire what qualifications, as to birth, occupation, or otherwise, are necessary to entitle any person to such rights and privileges, and of the nature and particulars of the said rights and privileges as now exercised, and also over what lands within the said forest or elsewhere such rights and privileges extend or are exercised, and of the variations (if any) in the manner in which such rights and privileges have at different times been exercised, and of any former proceedings at law or in equity which in the opinion of the said commissioners shall tend to ascertain the said rights and privileges, and of all such other matters and things as in the opinion of the said commissioners shall enable them to make one or more report or reports touching the said rights and privileges, in manner herein-after mentioned; and in like manner to inquire into the local limits within which the jurisdiction of the said court called the Mine Law Court and also of the said court called Saint Briavel's Court respectively exist, the nature of the suits which it is competent for the said courts respectively to entertain, and the nature and number of the suits which are usually brought in the said courts, the process by which the orders and decrees of the said respective courts are enforced, the expence of proceedings in the said courts, also into all other matters and things necessary for ascertaining the constitution, powers, jurisdiction, and practice of the said respective courts; and in like manner to inquire into the condition, as to repairs or otherwise, of the prison belonging to the said court called Saint Briavel's Court, and the treatment of and provision for persons confined in the same prison, and the general management and conduct thereof; and in like manner to inquire into the expediency of erecting and forming into one or more parish or parishes, or uniting to or consolidating with any adjoining or other existing parish or parishes, the said forest of Dean, and the lands lying within the perambulation and regard of the said forest, or such parts of the said forest and lands respectively as are extra-parochial.

II. That it shall be lawful for the lord high treasurer or the commissioners of his Majesty's treasury of the United Kingdom of Great Britain and Ireland, or any three or more of them, to order and direct such sum or sums of money as they in their discretion may think fit to be issued and paid out of the woods and forests revenues to any one of the commissioners appointed to carry this act into execution, as a remuneration for his services therein, provided such sums shall not exceed five hundred pounds in any one year, and of any additional sum or sums of money to defray the expences incurred by the said commissioners in the execution of this act, such sum not exceeding three hundred pounds, to be paid out of the woods and forests revenues: Provided

No. II.

1 & 2 W. 4,
c. 12.

Treasury may order 500*l.* to be paid to one of the commissioners for executing this act, and 300*l.* for expences, out of the woods and forests revenues.

No. II.
1 & 2 W. 4,
c. 12.

Commissioners
to take an
oath.

always, that no more than one of the commissioners to be appointed under this act shall receive any pay or remuneration for his trouble in carrying the provisions of this act into effect.

III. That the said commissioners before they shall be capable of acting in the execution of this act shall severally take and subscribe an oath before a justice of the peace for the county of Gloucester, or before one of the said commissioners (having first taken the said oath), to the effect following; that is to say,

' I A. B. do swear, That I will faithfully, impartially, and honestly, according to the best of my skill and judgment, execute the several powers reposed in me by an act of the second year of the reign of his Majesty king William the fourth, intituled *An Act for ascertaining the Boundaries of the Forest of Dean, and for inquiring into the Rights and Privileges claimed by Free Miners of the Hundred of Saint Briavel's, and for other purposes*, according to the tenor and purport of the said act.

So help me GOD.'

Commissioners
may call per-
sons to give
evidence or
produce re-
cords, &c.

IV. That it shall be lawful for the said commissioners to call before them, at one of their public meetings, any person, (including any judge, steward, or officer of the said court called Saint Briavel's Court, and any gaoler or other officer of the said prison), either to give evidence or to produce any records of the said court, or any other records or other documents in his possession or custody, not relating to his private estate, or to the private estate of any other person or persons, and which the said commissioners shall think necessary or proper to be examined for the purposes of any of the inquiries directed by this act or by the said commission or commissions; and any person (being duly summoned) refusing or omitting to appear or to give evidence, or to produce such records or documents, without reasonable excuse for such refusal or omission, shall forfeit any sum not exceeding ten pounds nor less than forty shillings, to be recovered and applied in manner herein-after mentioned.

Public notice
to be given of
commissioners'
meetings.

V. And to the intent that no person may have any just cause or pretence for not appearing before the said commissioners at their meetings to be held for the purpose of carrying this act into execution, be it further enacted, That the said commissioners shall give public notice of the time and place of every intended meeting, by publication of such notice fourteen days at least before such meeting in the *London Gazette* and in one of the public newspapers published in the said county of Gloucester, when and where any person having any rights or claims within the said forest may be at liberty to lay the same before the said commissioners: Provided always, That the said commissioners, or any one of them, shall and may from time to time adjourn their meeting to any future day, and to any place within the counties of Gloucester, Hereford, or Monmouth, without giving any public notice thereof in any newspaper: Provided always, That every place of meeting shall be within twelve miles of the boundary of the forest of Dean.

Meetings may
be appointed
by any two
commissioners.

VI. That any two of the said commissioners so to be appointed as aforesaid shall have full power and authority to appoint and hold meetings for the purpose of carrying this act into execution; and that at all meetings of the said commissioners under the authority of this act, or the said commission or commissions, the major part of the commissioners then present shall have full power and authority to do, exercise, and perform all such acts, powers, and authorities, matters and things, as in and by this act, or the said commission or commissions to be issued in pursuance thereof, are or shall be directed, authorized, or empowered to be done, exercised, or performed by the said commissioners.

Proceedings of
commissioners
to be entered
in books.

VII. That the said commissioners acting under the said commission shall be and they are hereby required to cause all their inquiries, examinations, and proceedings under this act to be fairly entered in books to be kept for that purpose, one book or set of books being appropriated

to the inquiries, examinations, and proceedings relating to the rights and privileges claimed by the persons calling themselves free miners as aforesaid, and another book or set of books being appropriated to the other inquiries, examinations, and proceedings under this act; all which books, duly signed and certified by the said commissioners or any two of them, shall be returned into the office of the commissioners of his Majesty's woods, forests, and land revenues, there to remain and be kept.

No. II.
1 & 2 W. 4,
c. 12.

VIII. That all pecuniary penalties and fines imposed by this act shall and may be recovered in a summary way before any justice or justices of the peace for the county of Gloucester, or for any county, riding, division, or place in which the person having incurred the same shall happen to be; and in case any penalty or fine recovered before any justice or justices of the peace in pursuance of this act shall not be paid forthwith, it shall be lawful for the justice or justices by whom such fine shall be set or imposed, or before whom such penalty shall be recovered, by warrant under his hand and seal or their hands and seals, and directed by such justice or justices to any constable or other peace officer, to cause such fine or penalty to be levied by distress and sale of the offender's goods and chattels, together with all costs and charges attending such distress and sale; and in case no sufficient distress can be had or made, such justice or justices shall, if he or they shall think proper, commit the offender to the common gaol for or some house of correction within the said county of Gloucester, or for such other county, riding, division, city, town, or place as aforesaid, there to remain without bail or mainprize for any space not exceeding two calendar months.

Recovery of
penalties.

IX. That if any action or suit shall be brought or commenced against any person or persons, for any thing by him, her, or them done or executed in pursuance of this act, or for any cause, matter, or thing herein contained, such action or suit shall be commenced within three calendar months next after the matter or thing done, and shall be laid in the proper county, and the defendant or defendants in such action may plead the general issue, and give the special matter in evidence, for his or their defence; and if upon trial a verdict shall pass for the defendant or defendants, or the plaintiff or plaintiffs become nonsuited, or discontinue his, her, or their action or prosecution, or judgment shall be given against him, her, or them upon demurrer or otherwise, then such defendant or defendants shall have treble costs awarded to him or them against such plaintiff or plaintiffs.

Limitation of
actions.

X. That all penalties recovered and all fines imposed by virtue or in pursuance of this act shall be, by the justice or justices receiving the same, forthwith paid over or transmitted to the under steward of the said forest of Dean, to be applied in defraying the expenses attending the execution of this act or any other laws concerning the said forest.

Application of
penalties.

XI. That it shall and may be lawful for the said commissioners, or any two of them, and they are hereby required, from time to time and in such manner and form as shall be in that behalf specified in any such commission or commissions as aforesaid, to report to the lord high treasurer or the lords commissioners of his Majesty's treasury the boundaries of the said forest, and of the lands of his Majesty's subjects within the same, so far as the said commissioners shall be able to ascertain the same; and also to report what rights and interests the persons occupying or claiming to be interested in lands or tenements within the bounds of the said forest have or claim therein, and the origin or alleged origin of such rights and interests, whether by grant, custom, or otherwise, in all cases in which it shall not clearly appear to the said commissioners that a good title to such rights and interests can be established against the crown, including in such report the particulars of the rights and interests of persons claiming to be owners of or to have a right to open or work quarries, and the origin, whether by grant, custom, or otherwise, of such last-mentioned rights and interests

Commissioners
to report to the
treasury respecting
the boundaries of
the forest, the
several rights
claimed therein,
and other
matters relating
thereto.

No. II.
1 & 2 W. 4,
c. 12.

(save and except as to the rights and privileges claimed by the persons calling themselves free miners as aforesaid, which rights and privileges are to be made the subject of one or more separate report or reports, as herein-after mentioned); and also to report the dates, value, and other particulars of all other purprestures, encroachments, and trespasses in and upon the soil of his Majesty within the said forest, in all cases in which it shall not clearly appear to the said commissioners that a good title can be established against the crown; and also to report such proposals as the said commissioners shall think it expedient to state, from persons claiming against his Majesty, for compromising disputes relating to boundaries, or for the disposition or application of timber or other trees or wood, and to state the opinion of the said commissioners as to the expediency of accepting any such proposals as aforesaid; and also to report all such other matters relating to the property of the crown in the said forest, or any disputes relating thereto, as in carrying on the inquiries directed by this act it shall seem to the said commissioners expedient to state, and also the opinion of the said commissioners as to the best manner of settling such disputes; and also to report the local limits within which the jurisdiction of the said court called the mine law court and also of the said court called Saint Briavel's court respectively exist, the nature of the suits which it is competent for the said courts respectively to entertain, the nature and number of the suits which are usually brought in the said courts, the process by which the orders and decrees of the said respective courts are enforced, the expence of proceedings in the said courts, and all other matters and things necessary for showing the constitution, powers, jurisdiction, and practice of the said courts respectively; and also to report the condition, as to repairs and otherwise, of the prison belonging to the said court called Saint Briavel's court, and the treatment of and provision for persons confined in the same prison, and the general management and conduct of the said prison; and also to report the opinion of the said commissioners on the expediency of erecting and forming into one or more parish or parishes, or uniting to and consolidating with any adjoining or other existing parish or parishes, the said forest of Dean, and the lands lying within the perambulation and regard of the said forest, or such parts of the said forest and lands respectively as are extra-parochial; and also to state the reasons of the opinion of the said commissioners; and also to report all such other matters relating to the premises as in any such commission or commissions to be issued as aforesaid shall be in that behalf directed.

Commissioners
also to report
respecting the
rights of free
miners.

XII. That it shall and may be lawful for the said commissioners, or any two of them, and they are hereby required, at such time or times and in such manner and form as in any such commission or commissions shall be specified, to report to the lord high treasurer or lords commissioners of his Majesty's treasury the opinion of the said commissioners touching the origin of the rights and privileges claimed by the said persons calling themselves free miners as aforesaid, and touching the qualifications, as to birth, occupation, or otherwise, necessary to entitle any person to such rights and privileges; and also to report what the nature and particulars of the said rights and privileges are as now exercised, and over what lands within the said forest or elsewhere such rights and privileges extend or are now exercised, and of the variations (if any) in the manner in which the said rights and privileges have at different times been exercised, and also of such particulars of any former proceedings at law or in equity as in the opinion of the said commissioners shall tend to ascertain the said rights and privileges; and also to report the opinion of the said commissioners whether any such rights and privileges legally exist, and whether the manner in which the said rights and privileges are now exercised be warranted by law, and whether any rights and privileges which legally exist are abused, or are made the cover for illegal practices, and in what particular (if any) the present exercise of the said rights and privileges

departs from, exceeds, or is inconsistent with the exercise of the said rights and privileges as warranted by law; and also to report the opinion of the said commissioners as to the steps proper to be taken for settling the claims of the persons calling themselves free miners; and also to report all such other matters relating to the premises as shall be in that behalf directed by the said commission or commissions.

No. II.
1 & 2 W. 4,
c. 12.

XIII. That in case any of the said commissioners so to be appointed as aforesaid, or any future commissioner or commissioners appointed as herein-after mentioned, shall die or be removed before the duties of the commissioners shall be fully performed, then and so often as the same shall happen it shall be lawful for his Majesty to issue or cause to be issued, under the great seal of Great Britain, or under the seal of his Majesty's court of exchequer at Westminster, one or more commission or commissions, and thereby to appoint any other person or persons to be a commissioner or commissioners in the place of the commissioner or commissioners who shall have died, become incapable, or been removed; and that the surviving or continuing commissioner or commissioners (if any), and the commissioner or commissioners appointed as last aforesaid, or any two of them, shall proceed in the discharge of the duties imposed by this act on the commissioners to be first appointed under the provision herein-before contained, in the same manner and with the same powers and authorities in all respects as such commissioners or any two of them might have done in case such death, becoming incapable, or removal, had not taken place.

XIV. That the several reports to be made by the said commissioners under the authority of this act shall be made within two years from the passing of this act.

For supplying
vacancies in
commission.

Reports to be
made within
two years.

XV. That this act shall be deemed and taken to be a public act, and shall be judicially taken notice of as such by all judges, justices, and others, without being specially pleaded.

Public act.

[No. III.] 1 & 2 W. IV. c. 29.—An Act to authorize and empower the Commissioners appointed by an Act of the Seventh Year of his late Majesty King George the Fourth, for extending to Charing Cross, the Strand, and Places adjacent the Powers of an Act for making a more convenient communication from Mary-le-bone Park, to make and form a new Street from the Strand to Charles Street, Covent Garden, and to widen the North End of Bow Street into Long Acre; and for other Purposes.

[27th September 1831.]

WHEREAS an act was passed in the fifty-third year of the reign of his late Majesty king George the third, intituled *An Act for making a more convenient Communication from Mary-le-bone Park, and the Northern Parts of the Metropolis, in the parish of Saint Mary-le-bone, to Charing Cross, within the liberty of Westminster; and for making a more convenient Sewage for the same*; and by the same act the commissioners for the time being of his Majesty's woods, forests, and land revenues were appointed commissioners for carrying the purposes thereof into execution: And whereas by an act passed in the seventh year of the reign of his late Majesty king George the fourth, intituled *An Act to extend to Charing Cross, the Strand, and Places adjacent, the Powers of an Act for making a more convenient Communication from Mary-le-bone Park; and to enable the Commissioners of his Majesty's Woods, Forests, and Land Revenues to grant leases of the site of Carlton Palace*, it was enacted that the commissioners named and appointed in and by the said act of the fifty-third year of the reign of his said late Majesty king George the third should be and they were thereby authorized and em-

53 G. 3, c. 121.

7 G. 4, c. 77.

No. III.

1 & 2 W. 4,
c. 29.

9 G. 4, c. 70.

powered to make the several improvements and alterations therein mentioned, and to carry the purposes of the said act into execution in manner therein-after mentioned: And whereas an act was passed in the ninth year of the reign of his late Majesty king George the fourth, intituled *An Act to alter and enlarge the powers of an Act passed in the Seventh Year of the Reign of his present Majesty, for extending to Charing Cross, the Strand, and places adjacent, the powers of an Act for making a more convenient Communication from Mary-le-bone Park, and for enabling the Commissioners of his Majesty's Woods, Forests, and Land Revenues to Grant Leases of the Site of Carlton Palace; and for other Purposes relating thereto*: And whereas it would be a great accommodation to the public, and be the means of opening a more ready communication from the Strand to the northern parts of the Metropolis, if the commissioners named and appointed in and by the said recited act of the seventh year of the reign of his late Majesty king George the fourth, were authorized to make and form a new street, commencing on the north side of the Strand opposite Wellington-street, and extending from thence to Charles-street, Covent-garden, which said street will pass through or into the parishes of Saint Mary-le-Strand, Saint Clement Danes, Saint Paul Covent-garden, and Saint Martin-in-the-Fields, within the liberty of Westminster, in the county of Middlesex; and also to alter and improve Bow-street, by widening the north end thereof into Long Acre, in the said several parishes of Saint Paul Covent-garden and Saint Martin-in-the-Fields aforesaid: but as such improvements cannot be effected without the aid and authority of parliament, may it therefore please your Majesty that it may be enacted; and be it enacted, &c., That the commissioners for the time being of his Majesty's woods, forests, and land revenues shall be and they are hereby authorized and empowered to form and make the said new street, alterations, and improvements herein-before mentioned, and to carry the purposes of this act into execution in manner herein-after mentioned; and all acts, matters, and things authorized and necessary to be done and executed by the said commissioners, in pursuance of this act, may be done and executed by any two of them, and the same shall be as valid and effectual, and shall have the same force and effect, as if such acts, matters, and things had been done and executed by all the said commissioners.

Commissioners
of his Majesty's
woods, &c.
authorized to
carry this act
into execution.

Map or plan of
the street to be
deposited at the
office of the
commissioners
of woods, &c.
and be open to
inspection.

Limiting any
deviation from
the plan

II. And whereas a map or plan describing the lines of the street and the ground and premises through which the proposed alterations and improvements are to be made or carried by virtue of this act, together with a book of reference containing a list of the names of the owners and occupiers of such premises, have been made for the purpose of being deposited at the office of the commissioners of his Majesty's woods, forests, and land revenues; be it therefore enacted, That the said map or plan, and book of reference, after the same shall have been authenticated by the signature of the right honourable the speaker of the house of commons, shall be deposited with and shall remain in the custody of the said commissioners of his Majesty's woods, forests, and land revenues, and one copy thereof, signed by the speaker of the house of commons, shall be deposited in the parliament office, and one other copy, so signed, shall be deposited with the clerk of the peace of the city and liberty of Westminster, within three months from the passing of this act, to the end that all persons may at all seasonable times have liberty to inspect and peruse the same, and to take extracts or copies thereof at their will and pleasure, paying the sum of one shilling for every such inspection, and at the rate of sixpence for every seventy-two words of such copies or extracts of the said map or plan and book of reference; and that the said commissioners for executing this act, and for making the said alterations and improvements, shall not deviate between the Strand and Charles-street more than twelve statute feet, nor in any other place more than twenty yards of three feet each, from the lines described in the said map or plan, without the consent and approbation in writing of the person or persons, bodies politic, corporate,

or collegiate, through whose lands or premises such deviations shall be made.

III. Provided always, That it shall be lawful for the said commissioners for executing this act to make the said proposed street, alterations, and improvements, into, through, across, or over the several lands, hereditaments, or premises of any person or persons who is, are, or may be owner or owners of the land or premises over which the same is or are set out and described in the said map or plan as aforesaid, although the name or names of such person or persons may happen to be omitted or mis-stated in the said book of reference, in case it shall appear to any two or more justices of the peace for the said county of Middlesex, and be certified by writing under their hands, that such error or omission proceeded from mistake.

IV. That it shall be lawful for the said commissioners for executing this act, and they are hereby authorized and empowered, by and with the consent and approbation in writing of the lord high treasurer of the United Kingdom of Great Britain and Ireland, or of the commissioners for executing the office of lord high treasurer, or any three or more of them, to cause the said street, alterations, and improvements to be made, paved, and improved, into, through, across, or over the lands and premises described in such map or plan and book of reference, and in conformity to the lines described in such map or plan, and to such deviation therefrom as herein mentioned; and for such purpose it shall be lawful for the said commissioners acting in execution of this act, and for their surveyor or surveyors, officers, or workmen, with or without carriages and cattle, from time to time to enter upon the messuages or tenements, lands and premises, through which or whereupon the said street, alterations, or improvements hereby authorized to be made is or are intended to pass or be made, in such manner as the said commissioners acting in the execution of this act shall think necessary or proper, without being deemed a trespasser or trespassers, and without being subject or liable to any fine, penalty, or punishment, for entering or continuing upon any part or parts of such lands and premises, for the damages that shall be thereby occasioned; and the said commissioners acting in execution of this act shall and they are hereby authorized and empowered, during the making of the said alterations and improvements, to stop up all or any part of the carriageways of the said streets, and for that purpose to put up sufficient pallsadoes, bars, posts, or other erections, and to make such orders regulating the passage of all carts, carriages, and horses through the same, as to them the said commissioners shall seem fit and proper; and that the sole power and authority of paving, repairing, cleansing, lighting, and watching the said street and new ways which shall be made by virtue of this act, shall, when the same shall be so made, be vested in, and such street and ways, for all the purposes of paving, repairing, cleansing, lighting, and watching the same, shall be, remain, and continue under the care, management, control, and jurisdiction of the respective parishes to whom the same shall belong.

V. That for the purpose of making the said street, alterations, and improvements, it shall be lawful for the said commissioners acting in the execution of this act, and they are hereby authorized and empowered, when they shall deem it necessary, by and with the consent and approbation in writing of the said lord high treasurer, or of the said commissioners for executing the said office of lord high treasurer, or any three or more of them, to treat and agree for the purchase of any of the houses, buildings, erections, ground, tenements, and hereditaments described or comprised in the said map or plan and book of reference, or in such deviation as herein-before mentioned, and of any subsisting leases, terms, estates, and interests therein or charges thereon which the said commissioners for executing this act may, by and with such consent and approbation as aforesaid, deem necessary or expedient to be purchased for the purposes of this act: Provided always, That the

No. III.
1 & 2 W. 4,
c. 29.

Lands and premises described in the plan may be used, notwithstanding errors in the book of reference.

Commissioners empowered to make the street, and to stop up carriageways whilst the same is making.

Commissioners empowered to purchase lands and buildings for the purposes of this act.

No. III.
1 & 2 W. 4,
c. 29.

Limiting the
time for pur-
chasing houses,
&c.

Powers and
provisions of
7 G. 4, c. 77,
and 9 G. 4,
c. 70, extended
to this act.

Part of the
court or pas-
sage called
Gloucester
court, on the
east side of St.
James's street,
to cease to be a
public way.

said commissioners shall not be compelled to purchase the whole of the space coloured on the said plan as being within the powers of purchase limited by this act.

VI. That if the said commissioners shall not within the space of three years, to be computed from the passing of this act, purchase or cause to be valued, as herein-after mentioned, all and every such houses, buildings, erections, ground, tenements, and hereditaments which they are hereby authorized and empowered to purchase as aforesaid, and pay the consideration money, or money awarded for the same respectively in manner directed by this act, then and from thenceforth those powers which are hereby granted to them for such purpose only shall cease, determine, and be utterly void.

VII. That all the powers, provisions, authorities, regulations, directions, clauses, penalties, forfeitures, matters, and things in the said recited act of the seventh year of the reign of his late Majesty king George the fourth contained, relating to the purchase of any of the houses, buildings, erections, ground, tenements, and hereditaments, and of any subsisting leases, terms, estates, and interests therein, by that act directed to be purchased, or for ascertaining the value of any such premises in case of any refusal or inability to treat, or for completing any such purchase, or obtaining possession of any such premises, or any other matter or thing relating thereto; and all powers, provisions, and authorities in and by the said recited acts of the seventh and ninth years of the reign of his late Majesty given to the said commissioners acting in execution of the said acts, for selling, leasing, or exchanging any houses, buildings, lands, tenements, or hereditaments of or belonging to his Majesty, his heirs or successors, in the said acts mentioned, shall, as far as the same are applicable or can be applied, extend and be construed to extend to this present act, in such manner as that the commissioners acting in execution of the said recited act of the seventh year of the reign of his late Majesty as aforesaid shall be enabled to make the alterations and improvements herein-before directed to be made, and shall have all facilities and advantages for enabling them to make the same, as fully, amply, and effectually, to all intents and purposes whatsoever, as if the same powers, authorities, provisions, regulations, directions, clauses, penalties, forfeitures, matters, and things were particularly repeated and re-enacted in this present act with reference to the said alterations and improvements, and as if such alterations and improvements had been included in and authorized to be made and done by the said last-mentioned act.

VIII. And whereas a certain court or passage called Gloucester-court, situate on the east side of Saint James's-street, in the parish of Saint James within the liberty of Westminster in the county of Middlesex, adjoining to freehold property belonging to his Majesty, is now used as a public thoroughfare from Saint James's-street into Crown-court, and from thence into King-street in the parish of Saint James aforesaid: And whereas in consequence of the improvements now making by the commissioners of his Majesty's woods, forests, and land revenues, under the powers and provisions of the said recited act of the seventh year of the reign of his late Majesty king George the fourth, by widening the communication between Saint James's-street and King-street aforesaid, the greater portion of the said court called Gloucester-court has become unnecessary as a public thoroughfare; and it is desirable that such part of the soil and freehold of the said court should be vested in his Majesty, his heirs and successors, freed and discharged from all public or other rights of passing or repassing over the same: Now therefore it is hereby further enacted, That the said court or passage called Gloucester-court, except so much and such part of the eastern end thereof as may be necessary for a way or passage from Crown-court to the offices belonging to a messuage or dwelling-house in the occupation of John Dingwall, esquire, shall henceforth for ever hereafter cease to be a public way or passage, and that the soil and freehold of the said court

or passage (except as aforesaid) shall from henceforth be vested in his Majesty, his heirs or successors, freed and discharged from all public and private right of passing and repassing over and along the same; and that the said court or passage, and the site, soil, and freehold thereof (except as aforesaid), shall be liable to be sold, exchanged, leased, or disposed of by the commissioners for the time being of his Majesty's woods, forests, and land revenues, in such and the like manner as any other estates or possessions of the crown under their care and management.

No. III.
1 & 2 W. 4,
c. 29.

IX. And whereas by an act passed in the forty-sixth year of the reign of his late Majesty king George the third, intituled *An Act for consolidating and rendering more effectual the several Acts for the Purchase of Buildings and further Improvement of the Streets and Places near to Westminster Hall and the two Houses of Parliament*, certain commissioners were appointed and authorized to be appointed for carrying the purposes of the said act into execution: And whereas an act was passed in the forty-eighth year of the reign of his said late Majesty king George the third, intituled *An Act to amend and enlarge the Powers of an Act of the Forty-sixth Year of His present Majesty, for consolidating and rendering more effectual the several Acts for the Purchase of Buildings and further Improvement of the Streets and Places near to Westminster Hall and the Two Houses of Parliament*: And whereas by an act passed in the fifty-fourth year of the reign of his said late Majesty king George the third, intituled *An Act for further amending and enlarging the Powers of an Act of the Forty-sixth Year of His present Majesty, intituled 'An Act for consolidating and rendering more effectual the several Acts for the Purchase of Buildings and further Improvement of the Streets and Places near to Westminster Hall and the Two Houses of Parliament,' and for other purposes therein mentioned*, it was amongst other things enacted, that in case the piece or parcel of ground situate, lying, and being on the west side of Little George-street, the north side of Bow-street at the back of the new court house, and the south side of Prince's-mews, containing in length from east to west, as well on the north as the south side, one hundred and two feet and six inches, little more or less, and from north to south, as well on the east as the west side, seventy feet six inches, little more, or less, should at any time thereafter be purchased by the said commissioners of the said act of the forty-sixth year aforesaid, in pursuance of the powers contained in the said acts of the forty-sixth and forty-eighth years aforesaid, or either of them, it should and might be lawful to and for the lord high treasurer, or the commissioners for executing the said office of lord high treasurer, for the time being, or any three or more of them, at any time or times after the purchase or purchases last mentioned should have been made, and notwithstanding any act or acts of parliament then in force to the contrary, by indenture or indentures, to be inrolled in one of his Majesty's courts of record at Westminster, to grant or demise all or any part or parts of the said last-mentioned piece or parcel of ground to the patron, president, and vice-presidents for the time being of the school commonly called, or intended to be called, "The Westminster National Free School," and their successors, for any term or terms of years not exceeding ninety-nine years from the date of respective dates thereof, at a peppercorn rent during the whole of the term or terms of years thereby to be granted, and under and subject to such covenants for building and keeping in repair, and insuring from loss or damage by fire, and such other covenants, conditions, restrictions, and agreements, as the lord high treasurer, or the commissioners for executing the said office of lord high treasurer, for the time being, or any three or more of them, should approve; provided nevertheless, that every such grant or lease should be on the face of it expressed to be made in trust for the purposes of the said Westminster National Free School, and that a proviso should be therein inserted for making void the same respectively in the event of the ground therein to be comprised, and the buildings to be erected thereon, or any of them, or any part thereof, being used for any

46 G. 3, c. 89.

48 G. 3, c. 137.

54 G. 3, c. 154.

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purpose or purposes whatsoever unconnected with the said school; and it was thereby further enacted, That the patron, president, and vice-presidents for the time being of the said school should be and they were thereby constituted a corporation, by the name of "The Patron, President, and Vice-Presidents of the Westminster National Free School," in order to enable them to accept and take in a corporate capacity, by the name aforesaid, the grant or grants, lease or leases therein-before authorized to be granted, and to execute a counterpart or counterparts thereof, and for other purposes of the said school; and by that name, for the purposes aforesaid, they should and might have and use a common seal, and might sue and be sued, implead and be impleaded; but nothing in the said act, or in such grant or grants, lease or leases, contained or to be contained, should extend to charge the person or persons of him or them, or of his or their heirs, executors, or administrators, or his or their or any of their own proper lands or tenements, goods or chattels, with the performance of all or any of the covenants, conditions, or agreements in the same grant or grants, lease or leases, or any of them, to be contained; but all and every such action and actions, suit and suits, as should be brought or prosecuted for or in respect of the same covenants, conditions, and agreements, or any of them, should be brought or prosecuted against the said patron, president, and vice-presidents, and their successors, for the time being, in their corporate capacity: And whereas the said piece or parcel of ground mentioned and described in the said recited act of the fifty-fourth year of the reign of his late Majesty king George the third, as aforesaid, was soon after the passing of the said act purchased by the said commissioners acting in execution of the said recited act of the forty-sixth year aforesaid, and the patron, president, and vice-presidents of the Westminster National Free School were thereupon let into possession of the said piece or parcel of ground situated between the Westminster court house and Prince's-mews, and have since erected and built thereon a building or school called "The Westminster National Free School," and on a small piece or parcel of crown land on the north side thereof, and adjoining thereto, a dwelling house, for the residence of a master or mistress to such school; which said building, school, and dwelling house have been ever since the completion thereof appropriated and used as and for the purposes of the education of the children of the poor; but no lease has ever been granted to the said patron, president, and vice-presidents of the Westminster National Free School in pursuance of the said recited act of the fifty-fourth year of the reign of his said late Majesty king George the third as aforesaid: and whereas by an act passed in the seventh year of the reign of his late Majesty king George the fourth, intituled *An Act to vest in the Commissioners of His Majesty's Woods, Forests, and Land Revenues the Powers of several Acts for the Improvement of the Streets near Westminster Hall and the Houses of Parliament, and to authorize the Conversion of the Pavements in several Parts of the Metropolis into broken Stone Roads*, after reciting (amongst other things) the several herein-before recited acts of parliament, it was enacted that all the several powers and authorities given by the said acts therein-before recited, to the said commissioners appointed or to be appointed under and by virtue of the said recited act of the forty-sixth year of the reign of his said then late Majesty, should, from and after the passing of the now-reciting act, be transferred to the said commissioners of his Majesty's woods, forests, and land revenues, and be vested in the said last-mentioned commissioners, in as full, ample, and beneficial a manner, to all intents and purposes, for the carrying into effect the objects of the said recited acts, as the same were then vested in the said commissioners appointed under or by virtue of the said recited act of the forty-sixth year of the reign of his said late Majesty; and the said powers and authorities should, as to any exercise thereof by the said commissioners appointed or to be appointed by the said recited act of the forty-sixth year of the reign of his said late Majesty, from and after the passing of

7 G. 4, c. 78.

the now-reciting act, cease, determine, and be void, except as to any matter or thing which might have been done or contracted to be done by the said last-mentioned commissioners, in virtue thereof, before the passing of the now-reciting act; any thing in the said recited acts, or any of them, to the contrary thereof in anywise notwithstanding; and it was thereby further enacted that all the several provisions in the said therein-before recited acts contained, and thereby made applicable to the said commissioners appointed or to be appointed under or by virtue of the said recited act of the forty-sixth year of the reign of his said then late Majesty, should, from and after the passing of the now-reciting act, apply to the said commissioners of his Majesty's woods, forests, and land revenues, in the same manner, to all intents and purposes, as they would have done in case the said last-mentioned commissioners had been named in the said recited acts, instead of the said commissioners appointed or to be appointed under or by virtue of the said recited act of the forty-sixth year of the reign of his said then late Majesty: And whereas the income of the said Westminster National Free School, depending in a great measure on voluntary annual contributions, has become insufficient to meet its expences, and it has therefore been proposed by the national society for the education of the poor in the principles of the established church to establish the said Westminster National Free School as the central or chief school of the said national society, in order that the children in the neighbourhood of the Westminster National Free School may lose no part of the education hitherto received by them in the said school: And whereas the patron, president, and vice-presidents of the Westminster National Free School, being desirous that the proposal of the said national society should be carried into effect, have applied to and requested the commissioners of his Majesty's woods, forests, and land revenues to make and grant a lease or leases of the said two pieces or parcels of ground, with the building or school and dwelling house so erected thereon respectively as aforesaid, to the said national society; be it therefore enacted, That it shall and may be lawful to and for the commissioners for the time being of his Majesty's woods, forests, and land revenues, by and with the consent and approbation of the commissioners of his Majesty's treasury, or any three or more of them, at any time or times hereafter, and notwithstanding any act or acts now in force to the contrary, to grant or demise the said piece or parcel of ground, with the building or school and dwelling house thereon erected and built, to "The National Society for the Education of the Poor in the Principles of the Established Church," and their successors, for any term or terms of years not exceeding ninety-nine years, to be computed from the twenty-fourth day of June last, at a peppercorn rent for and in respect of the said piece or parcel of ground on which the said building or school is erected and built as aforesaid, and at the yearly rent of one pound fifteen shillings for and in respect of the said piece or parcel of ground on which the said dwelling house is erected and built as aforesaid, payable to his Majesty, his heirs and successors, during the whole of the term or terms of years thereby to be granted, and under and subject to such covenants for keeping in repair, and insuring from loss or damage by fire, and such other covenants, conditions, restrictions, and agreements as the commissioners for the time being of his Majesty's woods, forests, and land revenues shall approve: Provided nevertheless, that every such grant or lease be on the face of it expressed to be made in trust for the purposes of the said national society, and that a proviso be therein inserted for making void the same respectively in the event of the ground therein to be comprised, and the buildings erected thereon, or any of them, or any part thereof, being used for any purpose or purposes whatsoever unconnected with the said national society.

Commissioners, with consent of treasury, may grant a certain piece of ground to the national society for the education of the poor.

X. Provided always, and be it further declared and enacted, That nothing in this act contained shall extend, or be deemed or construed to extend, to prejudice, diminish, alter, or take away any of the rights, Saving the powers of the commissioners of sewers.

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powers, or authorities vested in the commissioners of sewers for the city and liberty of Westminster and part of the county of Middlesex; but all the rights, powers, and authorities vested in them shall be as good, valid, and effectual as if this act had not been made.

[No. IV.] 2 W. 4, c. 1.—An Act for uniting the Office of the Surveyor General of his Majesty's Works and Public Buildings with the office of the Commissioners of his Majesty's Woods, Forests, and Land Revenues; and for other Purposes relating to the Land Revenues.

[13th February 1832.]

WHEREAS by divers acts, and particularly an act passed in the tenth year of the reign of his late Majesty king George the fourth, 10 G. 4, c. 50. intituled *An Act to consolidate and amend the Laws relating to the Management and Improvement of his Majesty's Woods, Forests, Parks, and Chases; of the land revenue of the Crown within the Survey of the Exchequer in England; and of the land Revenue of the Crown in Ireland; and for extending certain Provisions relating to the same to the Isles of Man and Alderney*, all honors, hundreds, castles, lordships, manors, forests, chases, woods, parks, messuages, lands, tithes, fisheries, franchises, services, rents, and other land revenues, possessions, tenements, and hereditaments whatsoever (advowsons of churches and vicarages only excepted) which belong to his Majesty, within the ordering and survey of the court of exchequer in England or Wales, in Ireland, in the Isle of Man and its dependencies, and the Isle of Alderney, whether in possession, remainder, or expectancy, (which said honors, hundreds, castles, lordships, manors, forests, chases, woods, parks, messuages, lands, tithes, fisheries, franchises, services, rents, and other land revenues, possessions, and tenements, are commonly called "The Possessions and Land Revenues of the Crown," are under the management of a first commissioner and two other commissioners appointed by letters patent during his Majesty's pleasure, and styled "The Commissioners of his Majesty's Woods, Forests, and Land Revenues:" And whereas by an act passed in the fifty-fourth year of his late Majesty 54 G. 3, c. 157. king George the third, intituled *An Act for better Regulation of the Conduct of the Business of the Office of Works, and the Expenditure thereof*, his Majesty's works and public buildings, including as well the works and buildings the expence of which is defrayed out of his Majesty's civil list revenues, as the works and buildings the expence of which is defrayed out of any funds granted by parliament, or out of any part of the public revenue usually included in the incidental charges of such department, and the expenditure in respect of such works and buildings, are placed under the superintendence and control of an officer appointed during his Majesty's pleasure, called "The Surveyor General of his Majesty's Works and Public Buildings:" And whereas William Henry Cooper and Frederick Grey Cooper, sons of Sir Grey Cooper Baronet, deceased, are the only remaining grantees by letters patent of the office of auditor of the land revenues in England: And whereas, 39 G. 3, c. 83. under an act passed in the thirty-ninth year of the reign of his late Majesty king George the third, intituled *An Act for transferring to the Commissioners for auditing the Public Accounts the Duties now performed in the Office of the Auditors of the land Revenue, and for directing the Mode of attesting the Accounts of the Paymaster General of his Majesty's Forces*, and under the said act of the tenth year of the reign of his late Majesty, after the respective deaths of William Henry Cooper and Frederick Grey Cooper, the office of the said remaining auditors of the land revenue in England are directed to be abolished; and during the continuance of the said patent granted to William Henry Cooper and Frederick Grey Cooper the duties of the office of auditor for Chester,

Derby, Lincoln, and Nottingham, and of the office of the auditor for the principality of Wales (the grantees of which last-mentioned offices are dead), are performed by acting auditors in the said offices of the land revenue of the crown for the counties of Chester, Derby, Lincoln, and Nottingham, and for the principality of Wales, appointed or allowed by the commissioners of his Majesty's treasury, and removable at pleasure; and after the determination of the said remaining office of auditor of the land revenue of the crown in England the accounts of the said commissioners of his Majesty's woods, forests, and land revenues are under the said last-mentioned acts directed to be examined, tried, and audited by the commissioners appointed under the authority of an act of the twenty-fifth year of the reign of his late Majesty king George the third, intituled *An Act for better examining and auditing the Public Accounts of the Kingdom*: And whereas it is expedient that the management of the business of the office of works and buildings, and of the business of the office of the commissioners of his Majesty's woods, forests, and land revenues, should be united, and that the duties and powers now performed and exercised and exercisable by the commissioners of his Majesty's woods, forests, and land revenues, and the duties and powers under the said act of the fifty-fourth year of the reign of his late Majesty king George the third, now performed and exercised or exercisable by the surveyor general of his Majesty's works and public buildings, should be performed and exercised by one set of commissioners, to be appointed for the performance and exercise thereof respectively; and it is also expedient that the said remaining office of auditor of the land revenue should be abolished forthwith, and that the examination and auditing of accounts now performed by the said remaining auditors and by the said acting auditors shall be transferred to the commissioners for examining and auditing the public accounts of the kingdom, appointed under the authority of the said act of the twenty-fifth year of the reign of his late Majesty king George the third; and it is just that the said William Henry Cooper and Frederick Grey Cooper should receive a compensation for the loss they will sustain by the abolition of their said office of auditor of the land revenue; and it is expedient that provision should be made for the removal of the books of entries, records, deeds, instruments, writings, maps, plans, and other official papers now deposited in the offices or which are or ought to be in the custody of the said remaining auditors of the land revenue of the crown of England, and of the said acting auditors of the land revenue for the counties of Chester, Derby, Lincoln, and Nottingham, and the principality of Wales, and for the future custody and care thereof, and also for the inrolment, in manner herein-after mentioned, of all deeds and instruments which, in case this act had not been passed, ought, under the provisions of the said act of the tenth year of the reign of his late Majesty, to have been inrolled in the said remaining office of the auditor of the land revenue of the crown, or in the office of any acting auditor performing the duty of auditor of the land revenue of the crown in England or Wales, and for the future custody and care of such deeds and instruments: Be it therefore enacted, &c., That it shall be lawful for his Majesty, his heirs and successors, at any time after the passing of this act, and so from time to time, by letters patent under the great seal, to appoint, in the place of the commissioners of his Majesty's woods, forests, and land revenues, and of the surveyor general of his Majesty's works and public buildings, any persons, not exceeding three in number, to be commissioners for performing the duties and exercising the powers now performed and exercisable by the commissioners of his Majesty's woods, forests, and land revenues, and the duties and powers now performed and exercisable by the surveyor general of his Majesty's works and public buildings; and that the persons so first appointed, and their successors shall be called "The Commissioners of his Majesty's Woods, Forests, Land Revenues, Works, and Buildings;" and that the duties heretofore performed, and the powers heretofore exercised or exercisable,

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25 G. 3, c. 52.

Appointment of
commissioners
of his Majesty's
woods, forests,
land revenues,
works, and
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and the hereditaments, properties, rights, exemptions, and privileges whatsoever vested in or enjoyed by the commissioners of his Majesty's woods, forests, and land revenues, and the duties heretofore performed, and the powers heretofore exercised or exercisable, and the exemptions and privileges enjoyed by the said surveyor general of his Majesty's works and public buildings, shall, from and after such appointment, be performed and exercised and enjoyed by and vested in the commissioners of his Majesty's woods, forests, and land revenues, works and buildings, and their successors; and from and after such appointment all acts of parliament, deeds, bonds, contracts, agreements, and other instruments in which the commissioners of his Majesty's woods, forests, and land revenues, or the surveyor general of his Majesty's works and public buildings, are named or mentioned, shall apply to the commissioners for the time being of his Majesty's woods, forests, land revenues, works and buildings so to be appointed as aforesaid, as if such last-mentioned commissioners had been originally named in and made parties to such acts of parliament, deeds, bonds, contracts, agreements, and other instruments, instead of the commissioners of his Majesty's woods, forests, and land revenues, and the surveyor general of his Majesty's works and public buildings.

Regulations at present applicable to the board of works and to the commissioners of woods, &c. to be observed by the commissioners appointed under this act.

II. That all instructions which, in pursuance of and conformably to the directions of the said act of the fifty-fourth year of the reign of his late Majesty king George the third, the lord high treasurer or the commissioners of his Majesty's treasury have heretofore prepared and transmitted to the surveyor general of the office of works, for the conduct of the business of the office of works, or for the regulation or control of the expenditure thereof in any of its branches or departments, and all and singular orders, rules, instructions, and directions which, in pursuance of and conformably to the provisions of the said act of the tenth year of the reign of his late Majesty, have been made or given by the lord high treasurer or the commissioners of his Majesty's treasury, touching or concerning the duties of the office of the commissioners of his Majesty's woods, forests, and land revenues, shall be binding upon, observed, and kept by the commissioners of his Majesty's woods, forests, land revenues, works, and buildings, and their successors, in like manner as the same instructions, orders, rules, and directions respectively are now binding upon and are or ought to be observed and performed by the surveyor general of his Majesty's works and public buildings, and by the commissioners of his Majesty's woods, forests, and land revenues respectively.

Commissioners to be under the direction of the commissioners of the treasury.

III. That the commissioners of his Majesty's woods, forests, land revenues, works, and buildings, and their successors, shall perform and observe all the orders, directions, instructions, and rules, not being contrary to this act, which shall from time to time be given to them by the lord high treasurer or the commissioners of his Majesty's treasury for the time being, or any three or more of them, touching the performance of the duties and the exercise of the powers imposed upon and given to them by this act.

Monies in the banks of England and Ireland to be transferred to new commissioners.

IV. That all monies which, at the time of the first appointment of the commissioners of his Majesty's woods, forests, land revenues, works and buildings, shall be in the bank of England or in the bank of Ireland, or in any other bank, placed to the credit of any account or accounts under the control of the commissioners of his Majesty's woods, forests, and land revenues, shall, immediately after the appointment of the commissioners of his Majesty's woods, forests, land revenues, works, and buildings, be transferred, and the governors and managers of such banks respectively are hereby authorized and required to transfer the same monies respectively, to the credit of a like account under the control of the commissioners of his Majesty's woods, forests, land revenues, works, and buildings.

its pending

V. That the commissioners of his Majesty's woods, forests, land revenues, works, and buildings, for the purpose of prosecuting, defending,

and carrying on all actions, suits, and proceedings which shall be pending at the time of their first appointment, and that without the necessity of substituting the names of the commissioners of his Majesty's woods, forests, land revenues, works, and buildings, in lieu of the commissioners of his Majesty's woods, forests, and land revenues, and to and for all other intents, constructions, and purposes whatsoever, except so far as would be repugnant to the provisions of this act, shall come in the place of and be and shall be deemed and taken to be the successors of the commissioners of his Majesty's woods, forests, and land revenues, and also of the surveyor general of his Majesty's works and public buildings.

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in the name of
the new commis-
sioners.

VI. That every commissioner to be appointed as herein-before is directed shall, before he shall act in pursuance of such appointment, take the following oath, to be administered by the chief baron or one other of the barons of his Majesty's exchequer; (that is to say,) Commissioners to take an oath on their appointment.

' I A. B. do swear, That I will faithfully and diligently execute the duties of a commissioner of his Majesty's woods, forests, land revenues, works, and buildings. So help me GOD.'

VII. That it shall be lawful for his Majesty and his successors, by the letters patent by which the commissioners of his Majesty's woods, forests, land revenues, works, and buildings shall be appointed as aforesaid, to grant to the person first named in such letters patent respectively (who shall be chairman of the commission, and be called the first commissioner), and to the other commissioners respectively, the like salaries as by the said act of the tenth year of the reign of his late Majesty king George the fourth his Majesty is empowered to grant to the first commissioner and the other commissioners respectively of his Majesty's woods, forests, and land revenues. Commissioners to receive salaries.

VIII. That it shall and may be lawful for the commissioners to be appointed under this act, and they are hereby authorized, empowered, and required, to exercise and carry into effect all the powers, authorities, clauses, enactments, and provisions contained in the said recited act of the tenth year of the reign of his late Majesty king George the fourth, either expressly or by reference to any other acts, and also to execute and carry into effect all the powers, authorities, enactments, and provisions contained in any other act or acts relating to his Majesty's woods, forests, and land revenues, or to the estates and possessions of the crown, as fully, amply, and effectually as the same could have been carried into effect and exercised by the commissioners of his Majesty's woods, forests, and land revenues aforesaid, or as if the commissioners to be appointed under this act had been named in the said acts instead of the commissioners of his Majesty's woods, forests, and land revenues aforesaid. Powers of former acts vested in the commissioners.

IX. That all leases, and all contracts and agreements for the letting of any part or portion of the estates and possessions of his Majesty, which shall have been made or entered into by the commissioners of his Majesty's woods, forests, and land revenues, and all deeds, contracts, and agreements which shall have been made or entered into by the said commissioners, or by the surveyor general of his Majesty's works and public buildings, shall, from and after the appointment of the commissioners under this act, continue and be of the same force and effect against and for the benefit of the commissioners to be appointed under this act as the same would have been of against and for the benefit of the commissioners of his Majesty's woods, forests, and land revenues, or the surveyor general of his Majesty's works and public buildings, in case this act had not been passed; and the commissioners to be appointed as aforesaid under this act shall have the same powers and remedies for recovering the rents and compelling performance of the covenants in such leases respectively contained, and on the part of the lessees to be paid and performed, and for enforcing the performance of All leases, contracts, and agreements to remain force in the same manner as if this act had not passed.

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such deeds, contracts, and agreements, and for recovering any penalties or damages for the nonpayment of such rents, or nonperformance of such covenants, deeds, contracts, and agreements, and shall also have the same benefit of all securities given or entered into for the due payment of such rents, and performance of such covenants, contracts, and agreements respectively, and of all other securities given or entered into, to or with the commissioners of his Majesty's woods, forests, and land revenues, or the surveyor general of his Majesty's works and public buildings, as such commissioners or surveyor general respectively could have had in case this act had not been passed, or as if the commissioners to be appointed under this act had been parties to or named in such leases, contracts, agreements, and securities, instead of the commissioners of his Majesty's woods, forests, and land revenues, or the surveyor general of his Majesty's works and public buildings, or as if the said securities had been given to the commissioners to be appointed under or by virtue of this act; and all rents and sums of money which, if this act had not been passed, would, from and after the appointment of the commissioners under this act, have been due and payable to the commissioners of his Majesty's woods, forests, and land revenues, or to the surveyor general of his Majesty's works and public buildings, shall be due and payable to and shall be paid to the commissioners to be appointed under this act; and such commissioners shall have the same benefit of all bonds and securities, and of all other remedies for recovering and obtaining payment of such sums respectively, as the commissioners of his Majesty's woods, forests, and land revenues, or the surveyor general of his Majesty's works and public buildings, might or could have had in case this act had not been passed; and all debts and sums of money which if this act had not been passed would, from and after the appointment of the commissioners under this act, have been payable by the commissioners of his Majesty's woods, forests, and land revenues, or by the surveyor general of his Majesty's works and public buildings, shall be paid by the commissioners to be appointed under this act; and the commissioners to be appointed under this act, shall, from and after they shall be appointed commissioners as aforesaid, be bound by every such lease, deed, contract, or agreement as aforesaid, in the same manner as if they had been parties thereto or named therein instead of the commissioners of his Majesty's woods, forests, and land revenues, or the surveyor general of his Majesty's works and public buildings.

Powers and privileges of first commissioner.

X. That the first commissioner of his Majesty's woods, forests, land revenues, works, and buildings shall have the like privilege of receiving and sending letters and packets free from postage, and in all other respects shall have the powers and privileges, and for all purposes whatsoever shall come in the place and be the successor of the first commissioner of his Majesty's woods, forests, and land revenues, as well in relation to all other matters as in relation to his Majesty's woods, forests, and land revenues; and that where any thing is, by any act heretofore passed, required, directed, or permitted to be done by the commissioners of his Majesty's woods, forests, and land revenues, and which if done by two of them would by law be as valid and effectual as if done by all of them, and when any thing is by this act or shall by any future act be required, directed, or permitted to be done by the commissioners of his Majesty's woods, forests, land revenues, works, and buildings, the same may be done by any two of them, unless express provision be made to the contrary, and if done by two of them shall be as valid and effectual as if done by all of them.

Two commissioners may act in certain cases.

XI. That one of the said commissioners of his Majesty's woods, forests, land revenues, works, and buildings, for the time being, and no more, shall be capable of sitting and voting as a member of the house of commons of the united parliament of Great Britain and Ireland; and that no person appointed a commissioner under this act

One commissioner may be a member of the house of commons.

upon the first appointment of such commissioners, and who shall at the time be a commissioner of his Majesty's woods, forests, and land revenues, shall be deemed or taken to have accepted an office of profit from the crown within the meaning of an act passed in the sixth year of the reign of her late Majesty Queen Ann, intituled *An Act for the Security of Her Majesty's Person and Government, and of the Succession to the Crown of Great Britain in the Protestant Line.*

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2 W. 4, c. 1.
6 Anne, c. 7.

XII. That all the accounts, from the fifth day of January one thousand eight hundred and thirty-two, and the time subsequent thereto, heretofore examined, tried, and audited by or in the offices of the auditors or acting auditors of the land revenue of the crown in England and Wales, or in either of them, shall, from and after the passing of this act, be examined, tried, and audited by the commissioners for examining and auditing the public accounts of the kingdom under the authority of the said act of the twenty-fifth year of the reign of his late Majesty king George the third, except as to the account for the time previous to the said fifth day of January one thousand eight hundred and thirty-two, and that the said last-mentioned commissioners shall have and exercise the like powers and authorities for examining, trying, and auditing the several accounts aforesaid as are now vested in the same commissioners, by virtue of the said act of the twenty-fifth year of the reign of his late Majesty king George the third, for examining, trying, and auditing the public accounts of the kingdom, or as are now vested in the said remaining grantees of the office of auditors, or in the said acting auditors of the land revenue of the crown in England, and in the principality of Wales respectively, by any statute, law, usage, or custom whatsoever.

Accounts now audited by the auditors of the land revenue to be transferred to the commissioners for auditing the public accounts.

XIII. That from and after the fifth day of January one thousand eight hundred and thirty-three the said remaining office of auditor of the land revenue in England, of which the said William Henry Cooper and Frederick Grey Cooper are grantees as aforesaid, shall cease; but all accounts relating to the possessions and land revenues of the crown for the time previous to the said fifth day of January one thousand eight hundred and thirty-two, heretofore liable to be examined, tried, and audited by the said remaining auditors, or by any acting auditors of the land revenue of the crown in England, or in the principality of Wales, shall be examined, tried, and audited by such remaining auditors or acting auditors until the same shall be finally settled, in the like manner, and with the like powers of giving discharges, and all other the like powers and privileges, as if this act had not been passed.

Office of auditor of the land revenue to be abolished.

XIV. That a reasonable compensation shall be made to the said William Henry Cooper and Frederick Grey Cooper respectively for the loss they will respectively sustain by the passing of this act; and the amount of such compensation shall be fixed by such person as the lord high treasurer, or the commissioners of his Majesty's treasury, or any three of them, shall for that purpose appoint, on behalf of his Majesty, and by such person as the said William Henry Cooper and Frederick Grey Cooper, or the survivor of them, shall appoint on their or his behalf respectively; and in case the referees so appointed shall not agree, the amount of such compensation shall be fixed by such person as shall be appointed as umpire by the two first-named referees, by writing under their hands, before they proceed to the business of the reference; and the determination of the said referees or of their umpire shall be binding on all parties; and that the said referees and the said umpire shall and may send for persons and papers, and examine witnesses upon oath, which oaths either of the said referees or the said umpire is hereby authorized to administer; and the amount of the compensations, when ascertained as aforesaid, the lord high treasurer, or the commissioners of his Majesty's treasury for the time being, or any three or more of them, may pay or direct to be paid out of the land revenues of the crown, or out of any money applicable as land revenues of the crown.

Compensation to grantees; which shall be fixed by referees.

No. IV.
2 W. 4, c. 1.

Commissioners
of the treasury
to provide a
place for the
records of the
office of land
revenue;

and appoint a
keeper thereof.

Keeper to hold
his office during
pleasure;

and to have a
salary.

Expences of
office to be paid
out of the fees.

Official papers
to be removed
into the new
office.

All deeds di-
rected by for-
mer acts to be
inrolled in the
office abolished
to be inrolled in
the new office.

Fees to be paid
as directed by

XV. That it shall be lawful for the lord high treasurer, or the commissioners of his Majesty's treasury for the time being, or any three or more of them, and he or they is and are hereby required, to provide a proper building or buildings, in London or Westminster, for the reception and safe custody of all the books of entry, records, deeds, instruments, writings, maps, plans, and other official papers which are now deposited or kept in the offices or which are or ought to be in the custody of the said remaining auditors or of any of the said acting auditors of the land revenues of the crown in England or in the principality of Wales, and also for the reception and safe custody of such deeds and instruments as shall hereafter be inrolled in pursuance of the directions herein-after contained, and of such other writings, surveys, maps, plans, and other official papers as shall hereafter be deposited as herein-after mentioned; and that the building or buildings so to be provided shall be called "The office of land revenue records and inrolments."

XVI. That it shall be lawful for the lord high treasurer, or the commissioners of his Majesty's treasury for the time being, or any three of them, from time to time to appoint a proper person to be the keeper of the said records and inrolments, and to make rules and regulations (not contrary to the provisions of this act) for the execution of the duties of the office of keeper of the said records and inrolments.

XVII. That the keeper of the records and inrolments shall hold his office during the pleasure of the lord high treasurer, or the commissioners for the time being of his Majesty's treasury, and may be removed from his office by the lord high treasurer, or the commissioners of his Majesty's treasury for the time being, or any three of them, at pleasure.

XVIII. That it shall be lawful for the lord high treasurer, or the commissioners of his Majesty's treasury for the time being, or any three or more of them, to assign to the keeper of the records and inrolments such salary or other remuneration as to the lord high treasurer, or to the commissioners of his Majesty's treasury for the time being, or any three of them shall seem meet.

XIX. That the expences of providing and maintaining a building or buildings for the said office of records and inrolments, and all the expenses of carrying on the business of the said office, including salaries and other remunerations, shall be paid and borne out of the produce of the fees to be taken as herein-after mentioned.

XX. That it shall be lawful for the lord high treasurer, or the commissioners of his Majesty's treasury for the time being, or any three or more of them, as soon as conveniently may be, to cause all the books of entry, records, deeds, instruments, surveys, writings, maps or plans, and other official papers which are now deposited or kept in the offices or which are or ought to be in the custody of the said remaining auditors or of any of the acting auditors of the land revenues of the crown in England or in the principality of Wales, to be removed to the said office of land revenue records and inrolments.

XXI. That all deeds or instruments which, in case this act had not been passed, would or ought, after the said fifth day of January one thousand eight hundred and thirty-three, under the authority of the said act of the tenth year of the reign of his late Majesty, or any other act, or in pursuance of any covenant entered into by any person or persons with the king's Majesty, or the commissioners of his Majesty's woods, forests, and land revenues, to have been or might have been inrolled in the office of any auditor or acting auditor performing the duty of auditor of the land revenue of the crown in England or in the principality of Wales, or in the office of the commissioners for auditing the public accounts, shall be inrolled in the said office of land revenue records and inrolments.

XXII. That such fees shall be paid for inrolments made under the authority of this act, and for searches in the said office of land revenue

records and inrolments, and for office copies furnished by the same office, as the lord high treasurer, or the commissioners for the time being of his Majesty's treasury, or any three or more of them, shall from time to time appoint, yet so that such fees shall not exceed the amount of the fees which have been used and accustomed to be taken upon the inrolment of the like deeds or instruments, and upon the like searches, and upon the furnishing of the like office copies; and that the fees on the inrolment of any lease, conveyance, deed, or other instrument by which any part or parts of the possessions and land revenues of the crown shall be demised, granted, sold, or given in exchange, shall be paid by the lessees, purchasers, or grantees, and in other cases by the said commissioners of his Majesty's woods, forests, land revenues, works, and buildings; and a minute or docket of every such lease, grant, deed, or other instrument shall be entered and preserved by the said commissioners of his Majesty's woods, forests, land revenues, works, and buildings, in their office.

No. IV.

2 W. 4, c. 1.
 commissioners
 of the treasury.

XXIII. That the said keeper of the records and inrolments shall and he is hereby required to inrol or cause to be inrolled every deed and instrument which is hereby directed to be inrolled in the said office of records and inrolments in order of time as the same shall respectively be brought into his office for that purpose, and certify or cause to be certified, under his hand or the hand of some deputy or assistant for the time being of the said keeper of the records and inrolments, upon the said deeds or instruments respectively, when inrolled, the fact of their having been so inrolled.

Deeds to be in-
 rolled in order
 as they are
 brought in.

XXIV. Provided always, That in case of sales where the purchase money shall not amount to the sum of one hundred pounds, it shall not be necessary to inrol under this act the conveyances by which such sales shall be carried into effect, but the commissioners for the time being of his Majesty's woods, forests, land revenues, works, and buildings shall once in every year transmit to the said office of records and inrolments a statement of the part or parts of the said possessions and land revenues of the crown which shall have been so sold, including a specification of the district or place in which the same lie, and of the sums for which the same shall have been sold, with the names of the respective purchasers; and such statement shall be inrolled in the books of the office of records and inrolments.

Sales under a
 certain amount
 not to be in-
 rolled.

XXV. That every conveyance, deed, or instrument, whereby any estate, manor, lordship, messuages, lands, tenements, or hereditaments in England or Wales, or any term of years or interest therein, shall be conveyed or assigned to his Majesty, his heirs or successors, or to a trustee or trustees for his Majesty, his heirs or successors, under the authority of the said act of the tenth year of the reign of his late Majesty, or of any other act, shall, when so inrolled as herein-before directed, without any inrolment or acknowledgment thereof, in any court or courts of law or equity, or any registry thereof, be as good and available, and of the like force and effect in all respects and to all intents and purposes, as if the same had been or was inrolled in any of his Majesty's courts at Westminster, or as if a memorial had been entered or registered in the office appointed for registering deeds and other conveyances of lands and tenements in the county or counties in which the same estates or any of them are situate; any act, law, practice, or usage to the contrary in anywise notwithstanding.

All deeds in-
 rolled as here-
 by directed
 shall be as
 valid as if in-
 rolled in his
 Majesty's
 courts at West-
 minster.

XXVI. That where any deed or certificate, receipt or other instrument, which shall appear to have been made, given, or executed under the authority of this act, or of any act heretofore passed relating to the possessions and land revenues of the crown, shall have written thereon a memorandum of its having been inrolled in the said office of records and inrolments, and such memorandum shall purport to be signed by the keeper of the records and inrolments, or by any person acting as his deputy or assistant, such memorandum shall in the absence of evidence to the contrary, be sufficient proof of the deed, certificate,

Deeds certified
 by the keeper of
 the records
 shall be re-
 ceived in evi-
 dence.

No. III.
1 & 2 W. 4,
c. 29.

powers, or authorities vested in the commissioners of sewers for the city and liberty of Westminster and part of the county of Middlesex; but all the rights, powers, and authorities vested in them shall be as good, valid, and effectual as if this act had not been made.

[No. IV.] 2 W. 4, c. 1.—An Act for uniting the Office of the Surveyor General of his Majesty's Works and Public Buildings with the office of the Commissioners of his Majesty's Woods, Forests, and Land Revenues; and for other Purposes relating to the Land Revenues.

[13th February 1832.]

- WHEREAS by divers acts, and particularly an act passed in the tenth year of the reign of his late Majesty king George the fourth, 10 G. 4, c. 50. intitled *An Act to consolidate and amend the Laws relating to the Management and Improvement of his Majesty's Woods, Forests, Parks, and Chases: of the land revenue of the Crown within the Survey of the Exchequer in England: and of the land Revenue of the Crown in Ireland: and for extending certain Provisions relating to the same to the Isles of Man and Alderney*, all honors, hundreds, castles, lordships, manors, forests, chases, woods, parks, messuages, lands, tithes, fisheries, franchises, services, rents, and other land revenues, possessions, tenements, and hereditaments whatsoever (advowsons of churches and vicarages only excepted) which belong to his Majesty, within the ordering and survey of the court of exchequer in England or Wales, in Ireland, in the Isle of Man and its dependencies, and the Isle of Alderney, whether in possession, remainder, or expectancy, (which said honors, hundreds, castles, lordships, manors, forests, chases, woods, parks, messuages, lands, tithes, fisheries, franchises, services, rents, and other land revenues, possessions, and tenements, are commonly called "The Possessions and Land Revenues of the Crown," are under the management of a first commissioner and two other commissioners appointed by letters patent during his Majesty's pleasure, and styled "The Commissioners of his Majesty's Woods, Forests, and Land Revenues:" And whereas by an act passed in the fifty-fourth year of his late Majesty king George the third, 54 G. 3, c. 157. intitled *An Act for better Regulation of the Conduct of the Business of the Office of Works, and the Expenditure thereof*, his Majesty's works and public buildings, including as well the works and buildings the expence of which is defrayed out of his Majesty's civil list revenues, as the works and buildings the expence of which is defrayed out of any funds granted by parliament, or out of any part of the public revenue usually included in the incidental charges of such department, and the expenditure in respect of such works and buildings, are placed under the superintendence and control of an officer appointed during his Majesty's pleasure, called "The Surveyor General of his Majesty's Works and Public Buildings:" And whereas William Henry Cooper and Frederick Grey Cooper, sons of Sir Grey Cooper Baronet, deceased, are the only remaining grantees by letters patent of the office of auditor of the land revenues in England: And whereas, under an act passed in the thirty-ninth year of the reign of his late Majesty king George the third, 39 G. 3, c. 83. intitled *An Act for transferring to the Commissioners for auditing the Public Accounts the Duties now performed in the Office of the Auditors of the land Revenue, and for directing the Mode of attesting the Accounts of the Paymaster General of his Majesty's Forces*, and under the said act of the tenth year of the reign of his late Majesty, after the respective deaths of William Henry Cooper and Frederick Grey Cooper, the office of the said remaining auditors of the land revenue in England are directed to be abolished; and during the continuance of the said patent granted to William Henry Cooper and Frederick Grey Cooper the duties of the office of auditor for Chester,

Derby, Lincoln, and Nottingham, and of the office of the auditor for the principality of Wales (the grantees of which last-mentioned offices are dead), are performed by acting auditors in the said offices of the land revenue of the crown for the counties of Chester, Derby, Lincoln, and Nottingham, and for the principality of Wales, appointed or allowed by the commissioners of his Majesty's treasury, and removable at pleasure; and after the determination of the said remaining office of auditor of the land revenue of the crown in England the accounts of the said commissioners of his Majesty's woods, forests, and land revenues are under the said last-mentioned acts directed to be examined, tried, and audited by the commissioners appointed under the authority of an act of the twenty-fifth year of the reign of his late Majesty king George the third, intituled *An Act for better examining and auditing the Public Accounts of the Kingdom*: And whereas it is expedient that the management of the business of the office of works and buildings, and of the business of the office of the commissioners of his Majesty's woods, forests, and land revenues, should be united, and that the duties and powers now performed and exercised and exercisable by the commissioners of his Majesty's woods, forests, and land revenues, and the duties and powers under the said act of the fifty-fourth year of the reign of his late Majesty king George the third, now performed and exercised or exercisable by the surveyor general of his Majesty's works and public buildings, should be performed and exercised by one set of commissioners, to be appointed for the performance and exercise thereof respectively; and it is also expedient that the said remaining office of auditor of the land revenue should be abolished forthwith, and that the examination and auditing of accounts now performed by the said remaining auditors and by the said acting auditors shall be transferred to the commissioners for examining and auditing the public accounts of the kingdom, appointed under the authority of the said act of the twenty-fifth year of the reign of his late Majesty king George the third; and it is just that the said William Henry Cooper and Frederick Grey Cooper should receive a compensation for the loss they will sustain by the abolition of their said office of auditor of the land revenue; and it is expedient that provision should be made for the removal of the books of entries, records, deeds, instruments, writings, maps, plans, and other official papers now deposited in the offices or which are or ought to be in the custody of the said remaining auditors of the land revenue of the crown of England, and of the said acting auditors of the land revenue for the counties of Chester, Derby, Lincoln, and Nottingham, and the principality of Wales, and for the future custody and care thereof, and also for the inrolment, in manner herein-after mentioned, of all deeds and instruments which, in case this act had not been passed, ought, under the provisions of the said act of the tenth year of the reign of his late Majesty, to have been inrolled in the said remaining office of the auditor of the land revenue of the crown, or in the office of any acting auditor performing the duty of auditor of the land revenue of the crown in England or Wales, and for the future custody and care of such deeds and instruments: Be it therefore enacted, &c., That it shall be lawful for his Majesty, his heirs and successors, at any time after the passing of this act, and so from time to time, by letters patent under the great seal, to appoint, in the place of the commissioners of his Majesty's woods, forests, and land revenues, and of the surveyor general of his Majesty's works and public buildings, any persons, not exceeding three in number, to be commissioners for performing the duties and exercising the powers now performed and exercisable by the commissioners of his Majesty's woods, forests, and land revenues, and the duties and powers now performed and exercisable by the surveyor general of his Majesty's works and public buildings; and that the persons so first appointed, and their successors shall be called "The Commissioners of his Majesty's Woods, Forests, Land Revenues, Works, and Buildings;" and that the duties heretofore performed, and the powers heretofore exercised or exercisable,

No. IV.
2 W. 4, c. 1.

25 G. 3, c. 52.

Appointment of commissioners of his Majesty's woods, forests, land revenues, works, and buildings.

No. IV.
2^d W. 4, c. 1.

and the hereditaments, properties, rights, exemptions, and privileges whatsoever vested in or enjoyed by the commissioners of his Majesty's woods, forests, and land revenues, and the duties heretofore performed, and the powers heretofore exercised or exercisable, and the exemptions and privileges enjoyed by the said surveyor general of his Majesty's works and public buildings, shall, from and after such appointment, be performed and exercised and enjoyed by and vested in the commissioners of his Majesty's woods, forests, and land revenues, works and buildings, and their successors; and from and after such appointment all acts of parliament, deeds, bonds, contracts, agreements, and other instruments in which the commissioners of his Majesty's woods, forests, and land revenues, or the surveyor general of his Majesty's works and public buildings, are named or mentioned, shall apply to the commissioners for the time being of his Majesty's woods, forests, land revenues, works and buildings so to be appointed as aforesaid, as if such last-mentioned commissioners had been originally named in and made parties to such acts of parliament, deeds, bonds, contracts, agreements, and other instruments, instead of the commissioners of his Majesty's woods, forests, and land revenues, and the surveyor general of his Majesty's works and public buildings.

Regulations at present applicable to the board of works and to the commissioners of woods, &c. to be observed by the commissioners appointed under this act.

II. That all instructions which, in pursuance of and conformably to the directions of the said act of the fifty-fourth year of the reign of his late Majesty king George the third, the lord high treasurer or the commissioners of his Majesty's treasury have heretofore prepared and transmitted to the surveyor general of the office of works, for the conduct of the business of the office of works, or for the regulation or control of the expenditure thereof in any of its branches or departments, and all and singular orders, rules, instructions, and directions which, in pursuance of and conformably to the provisions of the said act of the tenth year of the reign of his late Majesty, have been made or given by the lord high treasurer or the commissioners of his Majesty's treasury, touching or concerning the duties of the office of the commissioners of his Majesty's woods, forests, and land revenues, shall be binding upon, observed, and kept by the commissioners of his Majesty's woods, forests, land revenues, works, and buildings, and their successors, in like manner as the same instructions, orders, rules, and directions respectively are now binding upon and are or ought to be observed and performed by the surveyor general of his Majesty's works and public buildings, and by the commissioners of his Majesty's woods, forests, and land revenues respectively.

Commissioners to be under the direction of the commissioners of the treasury.

III. That the commissioners of his Majesty's woods, forests, land revenues, works, and buildings, and their successors, shall perform and observe all the orders, directions, instructions, and rules, not being contrary to this act, which shall from time to time be given to them by the lord high treasurer or the commissioners of his Majesty's treasury for the time being, or any three or more of them, touching the performance of the duties and the exercise of the powers imposed upon and given to them by this act.

Monies in the banks of England and Ireland to be transferred to new commissioners.

IV. That all monies which, at the time of the first appointment of the commissioners of his Majesty's woods, forests, land revenues, works and buildings, shall be in the bank of England or in the bank of Ireland, or in any other bank, placed to the credit of any account or accounts under the control of the commissioners of his Majesty's woods, forests, and land revenues, shall, immediately after the appointment of the commissioners of his Majesty's woods, forests, land revenues, works, and buildings, be transferred, and the governors and managers of such banks respectively are hereby authorized and required to transfer the same monies respectively, to the credit of a like account under the control of the commissioners of his Majesty's woods, forests, land revenues, works, and buildings.

Suits pending to be carried on

V. That the commissioners of his Majesty's woods, forests, land revenues, works, and buildings, for the purpose of prosecuting, defending,

and carrying on all actions, suits, and proceedings which shall be pending at the time of their first appointment, and that without the necessity of substituting the names of the commissioners of his Majesty's woods, forests, land revenues, works, and buildings, in lieu of the commissioners of his Majesty's woods, forests, and land revenues, and to and for all other intents, constructions, and purposes whatsoever, except so far as would be repugnant to the provisions of this act, shall come in the place of and be and shall be deemed and taken to be the successors of the commissioners of his Majesty's woods, forests, and land revenues, and also of the surveyor general of his Majesty's works and public buildings.

No. IV.
2 W. 4, c. 1.
in the name of
the new commis-
sioners.

VI. That every commissioner to be appointed as herein-before is directed shall, before he shall act in pursuance of such appointment, take the following oath, to be administered by the chief baron or one other of the barons of his Majesty's exchequer; (that is to say,)

Commissioners
to take an oath
on their ap-
pointment.

' I *A. B.* do swear, That I will faithfully and diligently execute the duties of a commissioner of his Majesty's woods, forests, land revenues, works, and buildings.
So help me GOD.'

VII. That it shall be lawful for his Majesty and his successors, by the letters patent by which the commissioners of his Majesty's woods, forests, land revenues, works, and buildings shall be appointed as aforesaid, to grant to the person first named in such letters patent respectively (who shall be chairman of the commission, and be called the first commissioner), and to the other commissioners respectively, the like salaries as by the said act of the tenth year of the reign of his late Majesty king George the fourth his Majesty is empowered to grant to the first commissioner and the other commissioners respectively of his Majesty's woods, forests, and land revenues.

Commissioners
to receive sala-
ries.

VIII. That it shall and may be lawful for the commissioners to be appointed under this act, and they are hereby authorized, empowered, and required, to exercise and carry into effect all the powers, authorities, clauses, enactments, and provisions contained in the said recited act of the tenth year of the reign of his late Majesty king George the fourth, either expressly or by reference to any other acts, and also to execute and carry into effect all the powers, authorities, enactments, and provisions contained in any other act or acts relating to his Majesty's woods, forests, and land revenues, or to the estates and possessions of the crown, as fully, amply, and effectually as the same could have been carried into effect and exercised by the commissioners of his Majesty's woods, forests, and land revenues aforesaid, or as if the commissioners to be appointed under this act had been named in the said acts instead of the commissioners of his Majesty's woods, forests, and land revenues aforesaid.

Powers of former acts vested
in the commis-
sioners.

IX. That all leases, and all contracts and agreements for the letting of any part or portion of the estates and possessions of his Majesty, which shall have been made or entered into by the commissioners of his Majesty's woods, forests, and land revenues, and all deeds, contracts, and agreements which shall have been made or entered into by the said commissioners, or by the surveyor general of his Majesty's works and public buildings, shall, from and after the appointment of the commissioners under this act, continue and be of the same force and effect against and for the benefit of the commissioners to be appointed under this act as the same would have been of against and for the benefit of the commissioners of his Majesty's woods, forests, and land revenues, or the surveyor general of his Majesty's works and public buildings, in case this act had not been passed; and the commissioners to be appointed as aforesaid under this act shall have the same powers and remedies for recovering the rents and compelling performance of the covenants in such leases respectively contained, and on the part of the lessees to be paid and performed, and for enforcing the performance of

All leases, con-
tracts, and
agreements to
remain force in
the same man-
ner as if this
act had not
passed.

No. IV.
2 W. 4, c. 1.

such deeds, contracts, and agreements, and for recovering any penalties or damages for the nonpayment of such rents, or nonperformance of such covenants, deeds, contracts, and agreements, and shall also have the same benefit of all securities given or entered into for the due payment of such rents, and performance of such covenants, contracts, and agreements respectively, and of all other securities given or entered into, to or with the commissioners of his Majesty's woods, forests, and land revenues, or the surveyor general of his Majesty's works and public buildings, as such commissioners or surveyor general respectively could have had in case this act had not been passed, or as if the commissioners to be appointed under this act had been parties to or named in such leases, contracts, agreements, and securities, instead of the commissioners of his Majesty's woods, forests, and land revenues, or the surveyor general of his Majesty's works and public buildings, or as if the said securities had been given to the commissioners to be appointed under or by virtue of this act; and all rents and sums of money which, if this act had not been passed, would, from and after the appointment of the commissioners under this act, have been due and payable to the commissioners of his Majesty's woods, forests, and land revenues, or to the surveyor general of his Majesty's works and public buildings, shall be due and payable to and shall be paid to the commissioners to be appointed under this act; and such commissioners shall have the same benefit of all bonds and securities, and of all other remedies for recovering and obtaining payment of such sums respectively, as the commissioners of his Majesty's woods, forests, and land revenues, or the surveyor general of his Majesty's works and public buildings, might or could have had in case this act had not been passed; and all debts and sums of money which if this act had not been passed would, from and after the appointment of the commissioners under this act, have been payable by the commissioners of his Majesty's woods, forests, and land revenues, or by the surveyor general of his Majesty's works and public buildings, shall be paid by the commissioners to be appointed under this act; and the commissioners to be appointed under this act, shall, from and after they shall be appointed commissioners as aforesaid, be bound by every such lease, deed, contract, or agreement as aforesaid, in the same manner as if they had been parties thereto or named therein instead of the commissioners of his Majesty's woods, forests, and land revenues, or the surveyor general of his Majesty's works and public buildings.

Powers and privileges of first commissioner.

X. That the first commissioner of his Majesty's woods, forests, land revenues, works, and buildings shall have the like privilege of receiving and sending letters and packets free from postage, and in all other respects shall have the powers and privileges, and for all purposes whatsoever shall come in the place and be the successor of the first commissioner of his Majesty's woods, forests, and land revenues, as well in relation to all other matters as in relation to his Majesty's woods, forests, and land revenues; and that where any thing is, by any act heretofore passed, required, directed, or permitted to be done by the commissioners of his Majesty's woods, forests, and land revenues, and which if done by two of them would by law be as valid and effectual as if done by all of them, and when any thing is by this act or shall by any future act be required, directed, or permitted to be done by the commissioners of his Majesty's woods, forests, land revenues, works, and buildings, the same may be done by any two of them, unless express provision be made to the contrary, and if done by two of them shall be as valid and effectual as if done by all of them.

Two commissioners may act in certain cases.

XI. That one of the said commissioners of his Majesty's woods, forests, land revenues, works, and buildings, for the time being, and no more, shall be capable of sitting and voting as a member of the house of commons of the united parliament of Great Britain and Ireland; and that no person appointed a commissioner under this act

One commissioner may be a member of the house of commons.

upon the first appointment of such commissioners, and who shall at the time be a commissioner of his Majesty's woods, forests, and land revenues, shall be deemed or taken to have accepted an office of profit from the crown within the meaning of an act passed in the sixth year of the reign of her late Majesty Queen Ann, intituled *An Act for the Security of Her Majesty's Person and Government, and of the Succession to the Crown of Great Britain in the Protestant Line.*

No. IV.
2 W. 4, c. 1.
6 Anne, c. 7.

XII. That all the accounts, from the fifth day of January one thousand eight hundred and thirty-two, and the time subsequent thereto, heretofore examined, tried, and audited by or in the offices of the auditors or acting auditors of the land revenue of the crown in England and Wales, or in either of them, shall, from and after the passing of this act, be examined, tried, and audited by the commissioners for examining and auditing the public accounts of the kingdom under the authority of the said act of the twenty-fifth year of the reign of his late Majesty king George the third, except as to the account for the time previous to the said fifth day of January one thousand eight hundred and thirty-two, and that the said last-mentioned commissioners shall have and exercise the like powers and authorities for examining, trying, and auditing the several accounts aforesaid as are now vested in the same commissioners, by virtue of the said act of the twenty-fifth year of the reign of his late Majesty king George the third, for examining, trying, and auditing the public accounts of the kingdom, or as are now vested in the said remaining grantees of the office of auditors, or in the said acting auditors of the land revenue of the crown in England, and in the principality of Wales respectively, by any statute, law, usage, or custom whatsoever.

Accounts now audited by the auditors of the land revenue to be transferred to the commissioners for auditing the public accounts.

XIII. That from and after the fifth day of January one thousand eight hundred and thirty-three the said remaining office of auditor of the land revenue in England, of which the said William Henry Cooper and Frederick Grey Cooper are grantees as aforesaid, shall cease; but all accounts relating to the possessions and land revenues of the crown for the time previous to the said fifth day of January one thousand eight hundred and thirty-two, heretofore liable to be examined, tried, and audited by the said remaining auditors, or by any acting auditors of the land revenue of the crown in England, or in the principality of Wales, shall be examined, tried, and audited by such remaining auditors or acting auditors until the same shall be finally settled, in the like manner, and with the like powers of giving discharges, and all other the like powers and privileges, as if this act had not been passed.

Office of auditor of the land revenue to be abolished.

XIV. That a reasonable compensation shall be made to the said William Henry Cooper and Frederick Grey Cooper respectively for the loss they will respectively sustain by the passing of this act; and the amount of such compensation shall be fixed by such person as the lord high treasurer, or the commissioners of his Majesty's treasury, or any three of them, shall for that purpose appoint, on behalf of his Majesty, and by such person as the said William Henry Cooper and Frederick Grey Cooper, or the survivor of them, shall appoint on their or his behalf respectively; and in case the referees so appointed shall not agree, the amount of such compensation shall be fixed by such person as shall be appointed as umpire by the two first-named referees, by writing under their hands, before they proceed to the business of the reference; and the determination of the said referees or of their umpire shall be binding on all parties; and that the said referees and the said umpire shall and may send for persons and papers, and examine witnesses upon oath, which oaths either of the said referees or the said umpire is hereby authorized to administer; and the amount of the compensations, when ascertained as aforesaid, the lord high treasurer, or the commissioners of his Majesty's treasury for the time being, or any three or more of them, may pay or direct to be paid out of the land revenues of the crown, or out of any money applicable as land revenues of the crown.

Compensation to grantees; which shall be fixed by referees.

No. IV.
2 W. 4, c. 1.

Commissioners of the treasury to provide a place for the records of the office of land revenue;

and appoint a keeper thereof.

Keeper to hold his office during pleasure;

and to have a salary.

Expences of office to be paid out of the fees.

Official papers to be removed into the new office.

All deeds directed by former acts to be inrolled in the office abolished to be inrolled in the new office.

Fees to be paid as directed by

XV. That it shall be lawful for the lord high treasurer, or the commissioners of his Majesty's treasury for the time being, or any three or more of them, and he or they is and are hereby required, to provide a proper building or buildings, in London or Westminster, for the reception and safe custody of all the books of entry, records, deeds, instruments, writings, maps, plans, and other official papers which are now deposited or kept in the offices or which are or ought to be in the custody of the said remaining auditors or of any of the said acting auditors of the land revenues of the crown in England or in the principality of Wales, and also for the reception and safe custody of such deeds and instruments as shall hereafter be inrolled in pursuance of the directions herein-after contained, and of such other writings, surveys, maps, plans, and other official papers as shall hereafter be deposited as herein-after mentioned; and that the building or buildings so to be provided shall be called "The office of land revenue records and inrolments."

XVI. That it shall be lawful for the lord high treasurer, or the commissioners of his Majesty's treasury for the time being, or any three of them, from time to time to appoint a proper person to be the keeper of the said records and inrolments, and to make rules and regulations (not contrary to the provisions of this act) for the execution of the duties of the office of keeper of the said records and inrolments.

XVII. That the keeper of the records and inrolments shall hold his office during the pleasure of the lord high treasurer, or the commissioners for the time being of his Majesty's treasury, and may be removed from his office by the lord high treasurer, or the commissioners of his Majesty's treasury for the time being, or any three of them, at pleasure.

XVIII. That it shall be lawful for the lord high treasurer, or the commissioners of his Majesty's treasury for the time being, or any three or more of them, to assign to the keeper of the records and inrolments such salary or other remuneration as to the lord high treasurer, or to the commissioners of his Majesty's treasury for the time being, or any three of them shall seem meet.

XIX. That the expences of providing and maintaining a building or buildings for the said office of records and inrolments, and all the expenses of carrying on the business of the said office, including salaries and other remunerations, shall be paid and borne out of the produce of the fees to be taken as herein-after mentioned.

XX. That it shall be lawful for the lord high treasurer, or the commissioners of his Majesty's treasury for the time being, or any three or more of them, as soon as conveniently may be, to cause all the books of entry, records, deeds, instruments, surveys, writings, maps or plans, and other official papers which are now deposited or kept in the offices or which are or ought to be in the custody of the said remaining auditors or of any of the acting auditors of the land revenues of the crown in England or in the principality of Wales, to be removed to the said office of land revenue records and inrolments.

XXI. That all deeds or instruments which, in case this act had not been passed, would or ought, after the said fifth day of January one thousand eight hundred and thirty-three, under the authority of the said act of the tenth year of the reign of his late Majesty, or any other act, or in pursuance of any covenant entered into by any person or persons with the king's Majesty, or the commissioners of his Majesty's woods, forests, and land revenues, to have been or might have been inrolled in the office of any auditor or acting auditor performing the duty of auditor of the land revenue of the crown in England or in the principality of Wales, or in the office of the commissioners for auditing the public accounts, shall be inrolled in the said office of land revenue records and inrolments.

XXII. That such fees shall be paid for inrolments made under the authority of this act, and for searches in the said office of land revenue

records and inrolments, and for office copies furnished by the same office, as the lord high treasurer, or the commissioners for the time being of his Majesty's treasury, or any three or more of them, shall from time to time appoint, yet so that such fees shall not exceed the amount of the fees which have been used and accustomed to be taken upon the inrolment of the like deeds or instruments, and upon the like searches, and upon the furnishing of the like office copies; and that the fees on the inrolment of any lease, conveyance, deed, or other instrument by which any part or parts of the possessions and land revenues of the crown shall be demised, granted, sold, or given in exchange, shall be paid by the lessees, purchasers, or grantees, and in other cases by the said commissioners of his Majesty's woods, forests, land revenues, works, and buildings; and a minute or docket of every such lease, grant, deed, or other instrument shall be entered and preserved by the said commissioners of his Majesty's woods, forests, land revenues, works, and buildings, in their office.

No. IV.
2 W. 4, c. 1.
commissioners
of the treasury.

XXIII. That the said keeper of the records and inrolments shall and he is hereby required to inrol or cause to be inrolled every deed and instrument which is hereby directed to be inrolled in the said office of records and inrolments in order of time as the same shall respectively be brought into his office for that purpose, and certify or cause to be certified, under his hand or the hand of some deputy or assistant for the time being of the said keeper of the records and inrolments, upon the said deeds or instruments respectively, when inrolled, the fact of their having been so inrolled.

Deeds to be in-
rolled in order
as they are
brought in.

XXIV. Provided always, That in case of sales where the purchase money shall not amount to the sum of one hundred pounds, it shall not be necessary to inrol under this act the conveyances by which such sales shall be carried into effect, but the commissioners for the time being of his Majesty's woods, forests, land revenues, works, and buildings shall once in every year transmit to the said office of records and inrolments a statement of the part or parts of the said possessions and land revenues of the crown which shall have been so sold, including a specification of the district or place in which the same lie, and of the sums for which the same shall have been sold, with the names of the respective purchasers; and such statement shall be inrolled in the books of the office of records and inrolments.

Sales under a
certain amount
not to be in-
rolled.

XXV. That every conveyance, deed, or instrument, whereby any estate, manor, lordship, messuages, lands, tenements, or hereditaments in England or Wales, or any term of years or interest therein, shall be conveyed or assigned to his Majesty, his heirs or successors, or to a trustee or trustees for his Majesty, his heirs or successors, under the authority of the said act of the tenth year of the reign of his late Majesty, or of any other act, shall, when so inrolled as herein-before directed, without any inrolment or acknowledgment thereof, in any court or courts of law or equity, or any registry thereof, be as good and available, and of the like force and effect in all respects and to all intents and purposes, as if the same had been or was inrolled in any of his Majesty's courts at Westminster, or as if a memorial had been entered or registered in the office appointed for registering deeds and other conveyances of lands and tenements in the county or counties in which the same estates or any of them are situate; any act, law, practice, or usage to the contrary in anywise notwithstanding.

All deeds in-
rolled as here-
by directed
shall be as
valid as if in-
rolled in his
Majesty's
courts at West-
minster.

XXVI. That where any deed or certificate, receipt or other instrument, which shall appear to have been made, given, or executed under the authority of this act, or of any act heretofore passed relating to the possessions and land revenues of the crown, shall have written thereon a memorandum of its having been inrolled in the said office of records and inrolments, and such memorandum shall purport to be signed by the keeper of the records and inrolments, or by any person acting as his deputy or assistant, such memorandum shall in the absence of evidence to the contrary, be sufficient proof of the deed, certificate,

Deeds certified
by the keeper of
the records
shall be re-
ceived in evi-
dence.

No. IV.
2 W. 4, c. 1.

Deeds may be inrolled after the proper period, upon good cause being shown.

Inrolment of deeds shall have the same force as under former act.

Keeper of the records to render accounts to commissioners of the treasury.

receipt, or other instrument having been duly made, granted, given, or executed by the party or parties by whom the same shall purport to have been signed or executed, and of its having been duly inrolled as stated by such memorandum, and of the provisions of the act under which the same shall appear to have been made, granted, given, or executed, having been duly complied with; and such memorandum shall be receivable in evidence without proof of the handwriting of the signature thereto.

XXVII. That in all cases where the inrolment of any deed or other instrument, or minute or docket, before the keeper of the records and inrolments, or the entry of any deed or other instrument in the office of the commissioners of his Majesty's woods, forests, land revenues, works, and buildings, shall be omitted or delayed beyond the period provided for the inrolment and entry thereof respectively, it shall be lawful for the commissioners of his Majesty's woods, forests, land revenues, works, and buildings, for any reasonable cause to them shown for the omission or delay, and they are hereby authorized and empowered, to permit the making of any such inrolment or entry *same pro tunc*, and the same respectively when made under such authority shall be as valid and effectual as if made within the period limited for that purpose.

XXVIII. That the inrolment of any deed or instrument pursuant to the provisions of this act shall have the like force and effect as the inrolment thereof pursuant to the provisions of the said act of the tenth year of the reign of his late Majesty would have had in case this act had not been passed.

XXIX. That the keeper of the records and inrolments shall from time to time, as often as thereunto required, render and give to the lord high treasurer or to the commissioners of his Majesty's treasury for the time being an account of all monies which shall from time to time be received for fees in the said office of records and inrolments, and of all disbursements made for payment of the salaries and otherwise, on account of the carrying on the business of the said office; and the monies so received, and which shall not be disbursed as aforesaid, shall from time to time be carried to and become part of the revenues arising from the possessions and land revenues of the crown.

[No. V.] 2 W. IV. c. 3.—An Act to authorize the Application of Part of the Land Revenue of the Crown for the Completion of the Repair and Improvement of Buckingham Palace.
[13th February 1832.]

10 G. 4, c. 50.

WHEREAS by an act passed in the tenth year of the reign of his late Majesty king George the fourth, intituled *An Act to consolidate and amend the Laws relating to the Management and Improvement of his Majesty's Woods, Forests, Parks, and Chases; of the Land Revenue of the Crown within the Survey of the Exchequer in England; and of the Land Revenue of the Crown in Ireland; and for extending certain Provisions relating to the same to the Isles of Man and Alderney*, it was enacted, that from and after the passing of that act all honors, hundreds, castles, lordships, manors, forests, chases, woods, parks, messuages, lands, tithes, fisheries, franchises, services, rents, and other land revenues, possessions, tenements, and hereditaments whatsoever (advowsons of churches and vicarages only excepted), which then did belong to his Majesty, or thereafter should belong to his Majesty, his heirs or successors, within the ordering and survey of the court of exchequer in England or Wales, in Ireland, in the Isle of Man and its dependencies, and the Isle of Alderney, whether in possession, remainder, or reversion, which said honors, hundreds, castles, lordships, manors, forests, chases, woods, parks, messuages, lands, tithes, fisheries, franchises, services,

rents, and other land revenues, possessions, tenements, and hereditaments were therein-after, for the sake of distinction called "The Possessions and Land Revenues of the Crown to which this Act relates," should be under the management of the then present commissioners of his Majesty's woods, forests, and land revenues, and of their successors to be from time to time appointed by his Majesty, his heirs and successors, by his or their letters patent, and the said commissioners and their successors should continue to be called "The Commissioners of His Majesty's Woods, Forests, and Land Revenues;" and by the said act certain powers and authorities were given to the said commissioners for the application of all sums to be received by them under the authority of the said act, from any sales, exchanges, or leases to be made by the said commissioners of any part of the royal forests, and from any sales of any other parts of the possessions and land revenues of the crown, or for equality of exchange on any exchange of any of the said possessions and land revenues; and by the said act power and authority is given and granted to the said commissioners to apply so much of the monies to arise from the annual income of all the said possessions and land revenues of the crown to which the said act related, including fines on leases or otherwise for or in respect of the said possessions and land revenues (except from sales or exchanges), as the lord high treasurer or the commissioners of his Majesty's treasury for the time being should from time to time think proper, towards the payment and discharge of the costs, charges, and expences of the repairs, alterations, and improvements of Buckingham-palace, and the buildings, offices, and grounds appertaining and belonging thereto, provided that the sum to be so applied under the said act to such repairs, alterations, and improvements should not exceed the sum of one hundred and fifty thousand pounds, over and above the sum of three hundred and forty-six thousand pounds which had been then already applied thereto previous to the passing of that act; and, subject to the application aforesaid, and certain other applications mentioned in the said act, the said annual income was thereby directed to be carried to and made part of the consolidated fund of the united kingdom of Great Britain and Ireland: And whereas the said sum of one hundred and fifty thousand pounds mentioned in the said recited act hath been applied, under the direction of the commissioners of his Majesty's treasury, towards the payment and discharge of the costs, charges, and expences of the repairs, alterations, and improvements of Buckingham-palace, and the buildings, offices, and grounds appertaining and belonging thereto; but such repairs, alterations, and improvements are not yet completed and finished, and it will be necessary to lay out and expend the further sum of seventy-eight thousand seven hundred and fifty pounds in the completing of such repairs, alterations, and improvements as aforesaid: And whereas it is expedient that the hereditary revenues belonging to his Majesty in right of his crown should be made applicable, by and with the consent and approbation of the commissioners of his Majesty's treasury of the united kingdom of Great Britain and Ireland, to the purpose of defraying the costs, charges, and expences of completing and finishing the repairs, alterations, and improvements of Buckingham-palace, and the buildings, offices, and grounds appertaining and belonging thereto: Be it therefore enacted, &c., That it shall be lawful for the said commissioners of his Majesty's treasury, or any three of them, from time to time to direct and authorize the commissioners of his Majesty's woods, forests, and land revenues to pay and apply any sum or sums of money, part of the land revenues of the crown under their care and management, whether arising from sales of portions of the said land revenues of the crown, or from the rents of the crown lands, or otherwise, as they shall think necessary and expedient, towards the payment and discharge of the costs, charges, and expences of completing and finishing the repairs, alterations, and improvements of Buckingham-palace, and the buildings, offices, and grounds appertaining and

Commissioners of the treasury may authorize the application of part of the land revenues of the crown towards the repairs and improvements of Buckingham palace.

No. V.
2 W. 5, c. 3.

Such applica-
tion to have
precedence of
all others.

belonging thereto, provided that the sum to be so applied under this act shall not exceed the sum of seventy-five thousand pounds for the completion of such repairs, alterations, and improvements, and the sum of three thousand seven hundred and fifty pounds for the charges of the architect attendant upon such works.

II. That the payment of such sum or sums of money herein-before authorized to be made shall be prior to and take precedence of the payment or application of any sum or sums of money arising from the said land revenues for the purposes of the consolidated fund; but the said land revenues shall nevertheless remain subject and liable to the costs and charges attending the management thereof, and the payment or discharge of any sum or sums of money which may be now already charged thereon, or to the payment whereof the same now are or may hereafter become liable under or by virtue of any act or acts relating the said land revenues; any act or acts relating to or concerning the said revenues to the contrary thereof in anywise notwithstanding.

[No. VI.] 2 & 3 W. IV. c. 112.—An Act to authorize the Hereditary Land Revenues of the Crown in Scotland being placed under the Management of the Commissioners of the Land Revenues. [15th August 1832.]

The treasury
may issue a
warrant direct-
ing all reve-
nues, debts, du-
ties, &c. in
Scotland be-
longing to his
Majesty, to be
placed under
the manage-
ment of the
commissioners
of woods,
forests, and
land revenues.

WHEREAS it may hereafter become expedient that the duties and powers now performed and exercised and exercisable by the barons of his Majesty's court of exchequer in Scotland over the hereditary land revenues of the crown in Scotland should be performed and exercised by and such revenues placed under the management and control of the commissioners having the management and control of the hereditary revenues of the crown in England and Ireland; (1) be it therefore enacted, &c., That it shall and may be lawful to and for the lord high treasurer, or the commissioners of his Majesty's treasury of the united kingdom of Great Britain and Ireland, for the time being, or any three or more of them, and he and they is and are hereby authorized and empowered, by warrant under his or their hand or hands, to order and direct that from and after the time to be mentioned in such warrant all and every the revenues, debts, duties, and profits, of what nature or kind soever, anyways appertaining or which hereafter shall appertain to the king's Majesty, his heirs or successors within Scotland, and all honors, castles, manors, lands, tenements, and hereditaments in Scotland, which now do or hereafter shall appertain to the king's Majesty, his heirs or successors, by force or virtue of any attainder, outlawry, seizure for any crime, or cause of forfeiture, debt, or duty, or upon any extent, commission, or otherwise, or by force and virtue of the royal prerogative, or by any other right or title whatsoever, and all and every the rents, issues, and profits thereof or of any of them, and also all and every the goods, chattels, debts, credits, rights, titles, and personal estates within Scotland anyways accruing or belonging or which hereafter shall belong to the king's Majesty, his heirs and successors, by force or virtue of the royal prerogative, or of any attainder, outlawry, extent, inquisition, debt, duty, or forfeiture, or by any other right, title, ways, or means whatsoever, and all the remedies and means for recovering the same or the possession thereof, and all accounts relating thereto, and also all and every forfeitures and penalties which have been incurred or shall or may incur or become anyways due and payable in Scotland by force or virtue of any penal or other laws or statutes whatsoever, and also all fines, issues, forfeitures, or penalties, of what nature or kind soever, happening, arising, or accruing to the king's Majesty, his heirs or successors, within Scotland, save and except such as are now under the management of the commissioners of his Majesty's customs and excise

(1) See the 3 & 4 W. 4, c. 69, *post*.

respectively, shall be under the management, control, and direction of the commissioners for the time being of his Majesty's woods, forests, land revenues, works, and buildings in England and Ireland, and their successors, acting under or by virtue of an act passed in the tenth year of the reign of his late Majesty king George the fourth, intituled *An Act to consolidate and amend the Laws relating to the Management and Improvement of His Majesty's Woods, Forests, Parks, and Chases; of the Land Revenue of the Crown within the Survey of the Exchequer in England; and of the Land Revenue of the Crown in Ireland; and for extending certain Provisions relating to the same to the Isles of Man and Alderney*; and of another act passed in the second year of the reign of his present Majesty, intituled *An Act for uniting the Office of the Surveyor General of His Majesty's Works and Public Buildings with the Office of the Commissioners of His Majesty's Woods, Forests, and Land Revenues, and for other Purposes relating to the Land Revenues*; and from and after the time to be mentioned in such warrant as aforesaid the duties heretofore performed, and the powers heretofore exercised or exercisable, by the barons of his Majesty's court of exchequer in Scotland, in and about the management and control of such hereditaments and revenues respectively, shall be performed and exercised by the commissioners of his Majesty's woods, forests, land revenues, works, and buildings, and their successors; and all acts, deeds, bonds, contracts, agreements, and other instruments relating to such hereditaments and revenues respectively, in which the said barons of his Majesty's court of exchequer in Scotland are named or mentioned, shall apply to the commissioners for the time being of his Majesty's woods, forests, land revenues, works, and buildings, as if such commissioners had been originally named in and made parties to such acts, deeds, bonds, contracts, agreements, and other instruments, instead of the barons of the exchequer aforesaid.

No. VI.
2 & 3 W. 4,
c. 112.
10 G. 4, c. 50.

2 W. 4, c. 1.

II. That from and after the time to be mentioned in such warrant as aforesaid all the accounts relating to such hereditaments and possessions as aforesaid, heretofore examined, tried, and audited by the said barons of the exchequer in Scotland, shall be examined, tried, and audited in like manner as the accounts relating to the land revenue of the crown in England are in and by the said act passed in the second year of the reign of his present Majesty as aforesaid directed to be examined, tried, and audited.

Accounts relating to such revenues to be then transferred to the said commissioners.

[No. VII.] 3 & 4 W. IV. c. 38.—An Act to extend to the Twenty-first Day of January One thousand eight hundred and thirty-four, and to the End of the then next Session of Parliament, the Time for carrying into execution an Act of the First and Second Years of his present Majesty, for ascertaining the Boundaries of the Forest of Dean, and for inquiring into the Rights and Privileges claimed by Free Miners of the Hundred of Saint Briavels, and for other Purposes.

[14th August 1833.]

WHEREAS an act was passed in the first and second years of the reign of his present Majesty, intituled *An Act for ascertaining the Boundaries of the Forest of Dean, and for inquiring into the Rights and Privileges claimed by Free Miners of the Hundred of Saint Briavels, and for other purposes*, And whereas the commission directed by the said recited act to be issued under the great seal of Great Britain, or under the seal of his Majesty's court of exchequer, bears date the twenty-first day of January one thousand eight hundred and thirty-two: And whereas the time within which the commissioners are by the said recited

1 & 2 W. 4,
c. 12.

No. VII.
3 & 4 W. 4,
c. 38.

Time of making reports under recited act extended until 21 Jan. 1834.

Powers of recited act extended to this act.

act directed to make their reports to the lord high treasurer, or lords commissioners of his Majesty's treasury, will expire on the second day of August one thousand eight hundred and thirty-three: And whereas the commissioners appointed by virtue of the said act have proceeded with all practicable expedition, and have made great progress in inquiring into and ascertaining the boundaries of the said forest of Dean, the rights and interests of persons occupying or claiming to be interested in lands or tenements within the same, and the origin of the rights and privileges claimed by the persons calling themselves free miners; but as such rights, privileges, and interests are of a very complicated description, and have occupied considerable time in their investigation, and some of them not being yet ascertained and settled, it will be impracticable for the commissioners to make the reports directed by the said recited act within the period thereby limited; and it is therefore expedient that further time should be allowed for that purpose; be it therefore enacted, &c. That the time for making the several reports directed to be made by the said commissioners under the authority of the said recited act shall be extended until the twenty-first day of January one thousand eight hundred and thirty-four, and from thence to the end of the then next session of parliament.

II. That all the powers, provisions, authorities, regulations, directions, clauses penalties, forfeitures, matters, and things in the said recited act contained shall extend and be construed to extend to this present act, and shall operate and be in force during the said additional period, as fully and effectually, to all intents and purposes, as if the same powers, authorities, provisions, regulations, directions, clauses, penalties, forfeitures, matters, and things were particularly repeated and re-enacted in the body of this act and made expressly applicable thereto, and as if the time for the making the said several reports by the said commissioners as aforesaid had been therein originally extended to the said additional period.

[No. VIII.] 3 & 4 W. IV. c. 69.—An Act to extend and enlarge the Powers of the Commissioners of his Majesty's Woods, Forests, Land Revenues, Works, and Buildings, in relation to the Management and Disposition of the Land Revenue of the Crown in Scotland.

[28th August 1833.]

10 G. 4, c. 50.

WHEREAS by an act passed in the tenth year of the reign of his late Majesty king George the Fourth, intituled *An Act to consolidate and amend the Laws relating to the Management and Improvement of his Majesty's Woods, Forests, Parks, and Chases, of the Land Revenue of the Crown within the Survey of the Exchequer in England, and of the Land Revenue of the Crown in Ireland, and for extending certain Provisions relating to the same to the Isles of Man and Alderney*, it was enacted, that all the land revenues whatsoever (advowsons of churches and vicarages only excepted) which belonged to his Majesty within the ordering or survey of the court of exchequer in England or Wales, in Ireland in the Isle of Man and its dependencies, and the Isle of Alderney, should be under the management of the commissioners of his Majesty's woods, forests, and land revenues, and of their successors; and the said commissioners were thereby authorized to sell and lease, and otherwise dispose of and manage, the said land revenues to which the act now in recital relates, as in the said act is mentioned, and also to purchase, exchange, and take leases of any property under the terms and conditions and as in the said act is mentioned, and to appoint and remove officers and receivers relating to or otherwise employed in the receipt and management of the said revenue, and generally to administer the same as in the

said act is mentioned : And whereas by an act passed in the first year of the reign of his present Majesty, intituled *An Act for the Support of His Majesty's Household, and of the Honour and Dignity of the Crown of the United Kingdom of Great Britain and Ireland*, it was (amongst other things) enacted, that the produce of the hereditary duties and revenues (except the hereditary duties of excise on beer, ale, and cider,) which were payable to his said late Majesty king George the fourth in that part of Great Britain called Scotland, and also the small branches of the hereditary revenue and the produce of the hereditary casual revenues arising from any droits of admiralty or droits of the crown arising in the united kingdom, which had accrued since the decease of his said late Majesty, and which had not been applied and distributed in the payment of any charge thereupon respectively, or which should accrue during the life of his present Majesty, should be carried to and made part of the consolidated fund of the united kingdom of Great Britain and Ireland, and after the decease of his present Majesty all the said hereditary revenues, including the duties on beer, ale, and cider, should be payable and paid to his heirs and successors : And whereas by an act passed in the second year of the reign of his present Majesty, intituled *An Act for uniting the Office of the Surveyor General of his Majesty's Works and Public Buildings with the Office of the Commissioners of his Majesty's Woods, Forests, and Land Revenues, and for other Purposes relating to the Land Revenues*, it was enacted, that it should be lawful for his Majesty, his heirs and successors, by letters patent under the great seal, to appoint in the place of the commissioners of his Majesty's woods, forests, and land revenues, and of the surveyor general of his Majesty's works and public buildings, any persons, not exceeding three in number, to be commissioners for performing the duties and exercising the powers then performed and exercisable by the commissioners of his Majesty's woods, forests, and land revenues, and the duties and powers then performed and exercisable by the surveyor general of his Majesty's works and public buildings, and that the persons so first appointed, and their successors, should be called "The Commissioners of his Majesty's Woods, Forests, Land Revenues, Works, and Buildings;" and the said commissioners were by the said act empowered to exercise and carry into effect all the powers and provisions contained in the said recited act of the tenth year of the reign of his late Majesty king George the fourth, either expressly or by reference to any other acts : And whereas by virtue of an act passed in the second and third years of the reign of his present Majesty, intituled *An Act to authorize the Hereditary Land Revenues of the Crown in Scotland being placed under the Management of the Commissioners of the Land Revenues*, all the revenues, debts, duties, and profits, of what nature or kind soever, appertaining to the king's Majesty, his heirs or successors, within Scotland, and all honors, castles, manors, lands, tenements, and hereditaments in Scotland appertaining to the king's Majesty, his heirs or successors, by virtue of any attainder, outlawry, seizure for any crime or cause of forfeiture, debt, or duty, or upon any extent, commission, or otherwise, or by virtue of the royal prerogative, or by any other right or title whatsoever, and all the rents, issues, and profits thereof or of any of them, and also all the goods, chattels, debts, credits, rights, titles, and personal estates within Scotland anywise accruing or belonging to the king's Majesty, his heirs or successors, by virtue of the royal prerogative, or of any attainder, outlawry, extent, inquisition, debt, duty, or forfeiture, or by any other right, title, ways, or means whatsoever, and all the remedies and means for recovering the same and the possession thereof, and all accounts relating thereto, and also all forfeitures and penalties which have been incurred, or should be incurred, or become in any ways due and payable in Scotland by virtue of any penal or other laws or statutes whatsoever; and also all fines, issues, forfeiture, and penalties, of what nature or kind soever, happening, arising, or accruing to the king's Majesty, his heirs or suc-

No. VIII.

3 & 4 W. 4,
c. 69.

1 W. 4, c. 28.

2 W. 4, c. 1.

2 & 3 W. 4,
c. 112.

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So much of recited act of 2 & 3 W. 4, as gives the commissioners control of penalties, &c. under penal statutes repealed.

Commissioners to have the same powers with regard to land revenue in Scotland as with respect to land revenue in England.

All the provisions of 10 G. 4, c. 50, relating to selling, leasing, &c. the land revenues, and all the powers, &c. thereby given to the commissioners, to extend to this act.

cessors, within Scotland (except such as are now under the management of the commissioners of his Majesty's customs and excise respectively), are under the management, control, and direction of the commissioners for the time being of his Majesty's woods, forests, land revenues, works, and buildings in England and Ireland: And whereas it is expedient that the said commissioners should have such and the like powers of selling, leasing, and administering the hereditary possessions of his Majesty in Scotland, and of appointing and removing officers, and of purchasing, exchanging, and taking leases of lands in Scotland, in all respects as is by the said act passed in the tenth year of the reign of his late Majesty king George the fourth provided with respect to the land revenue in England, and generally that the several provisions contained in the said act passed in the tenth year of the reign of his said late Majesty king George the fourth should be extended to Scotland: And whereas it is expedient that so much of the said act passed in the second and third years of the reign of his present Majesty as relates to such part of the revenue of the crown in Scotland as are after mentioned should be repealed: Be it therefore enacted, &c., That so much of the said act passed in the second and third year of the reign of his present Majesty as gives to the said commissioners the management, control, and direction of all and every penalties and penalty which have been incurred, or which shall and may be incurred, or become anywise due and payable, in Scotland, by force or virtue of any penal statute, shall be repealed, and the same is hereby repealed.

II. That the said commissioners for the time being of his Majesty's woods, forests, land revenues, works, and buildings shall, from and after the passing of this act, have and exercise all and every the powers and authorities whatsoever with regard to his Majesty's land revenue, lands, tiends, feu retour, and other duties and casualties in Scotland under their management and control, as are contained in the said act passed in the tenth year of the reign of his late Majesty king George the fourth with respect to his Majesty's land revenue in England, and which the said commissioners are now entitled to have and exercise with respect to the land revenue in England, and in all respects as if his Majesty's land revenue, lands, tiends, feu retour, and other duties and casualties in Scotland, had been included and named in the said last-mentioned act, and the several clauses and provisions therein contained had been made applicable thereto, in the same manner as the same are made applicable to his Majesty's land revenue in England.

III. That all and every the provisions, regulations, directions, clauses, matters, things, powers, and authorities in the said recited act of the tenth year of the reign of his late Majesty king George the fourth contained, either expressly or by reference to other acts, relating to the selling, leasing, exchanging, and general administration of the possessions and land revenues of the crown in England, and all other the powers, provisions, and authorities in and by the said recited act of the tenth year of the reign of his late Majesty king George the fourth given to the said commissioners of his Majesty's woods, forests, and land revenues, shall, so far as the same are applicable or can be applied, extend and be construed to extend to this present act, as fully, amply, and effectually, to all intents and purposes whatsoever, as if the same provisions, regulations, directions, clauses, matters, things, powers, and authorities were particularly repeated and re-enacted in this present act, and made applicable to the said commissioners of his Majesty's woods, forests, land revenues, works, and buildings, or as if the said possessions and land revenues of the crown in Scotland had been included in the said recited act of the tenth year of the reign of his said late Majesty, and the aforesaid powers and provisions had been thereby made applicable to the possessions and land revenues of the crown in Scotland, (except that in all cases in which the sanction of the court of exchequer in England is by the said recited act of the tenth year of the reign of his late Majesty king George the fourth made necessary, the

sanction and authority of the court of session in Scotland shall be sufficient with respect to the said possessions and land revenues of the crown in Scotland; and except that all deeds, conveyances, or other documents relating to any sale, feu, exchange, lease, or purchase under the authority of this act, need not be inrolled in such manner as is directed by the said act of the tenth year of the reign of his late Majesty king George the fourth with respect to the instruments whereby any hereditaments in England should be sold under the authority of the said act).

IV. That whenever the commissioners for the time being of his Majesty's woods, forests, land revenues, works, and buildings shall have contracted or agreed with any person, body politic, corporate, or collegiate, under the authority of this act, for the sale, feuing, letting, exchanging, or otherwise disposing to him or to any part of the lands or other property or subjects of the crown to which this act relates, (not being any subsisting lease which may have been purchased or taken under the powers of this act,) the purchaser, in case the purchase money shall amount to the sum of one hundred pounds, shall cause the same to be paid into the bank of England, or any chartered bank in Scotland, or branch of the same throughout Scotland, as the said commissioners may direct; and the secretary, cashier, or other proper officer of the bank of England, or such chartered bank or branch thereof, shall, upon the production of any note signed by the said commissioners, specifying the sum to be so paid, and that it is to be so paid to their account, accept and receive the same, and carry the same to the account of the said commissioners of his Majesty's woods, forests, land revenues, works, and buildings, and give a receipt for the same, without fee or reward; but if such purchase money shall not amount to the sum of one hundred pounds, it shall not be necessary for the purchaser to pay the same into the bank of England, or such chartered bank or branch thereof, but he or they may, at his or their option, either pay the same into the bank of England, or any such chartered bank or branch thereof, as the said commissioners may direct, (in which case the secretary, cashier, or other proper officer of the said bank of England, or any such chartered bank or branch thereof, shall accept and give a receipt for the same as aforesaid,) or to the said commissioners for the time being of his Majesty's woods, forests, land revenues, works, and buildings, or their collector or agent to be appointed by them for that purpose; and the said commissioners shall, on the production of the receipt of the secretary, cashier, or other proper officer of the bank of England, or such chartered bank or branch thereof, for such purchase money, or in case the same shall not amount to one hundred pounds, then either on the production of such receipt, or on the payment to them, their collector or agent, of such purchase money, execute to the purchaser a conveyance, either printed or written, or partly printed and partly written, under their hands, of the lands, or other property or subjects agreed to be sold or exchanged, and give a receipt for the purchase money under their hands; and every such conveyance and receipt may be according to the form set forth in the schedule to this act annexed, or in any other form which may be deemed by the said commissioners more convenient; and every such conveyance and receipt shall be attested, as to the execution and signing thereof, by two witnesses; and it is hereby declared, that any deed, grant, or conveyance so made and granted of the lands, tiends, feu retour, and other duties, casualties, rents, and other the heritable property of the crown in Scotland, by the said commissioners, on being recorded or registered in the general or particular register of sasines, shall be held to alienate and dispose from his Majesty, his heirs and successors, the property or other subjects therein expressed to be comprised, in as valid a manner as if a complete feudal right holding, of and under his Majesty, his heirs and successors, had been granted, or as if the same had been constituted by a formal crown charter, and followed by sasine.

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Purchase money, how to be paid.

If amounting to 100l.

Where the sum is under 100l.

Upon production of receipt, commissioners to execute a conveyance of the property sold.

Conveyance when recorded in the register of sasines to be held to alienate the property from his Majesty.

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On sale of teinds, &c. to the vassal, receipt for purchase money to contain a declaratory promise that on the next renewal of investiture the charter shall contain a blench holding in lieu of the feu, &c.

Proprietors, &c. of entailed estates may purchase the teinds, &c. affecting the same.

24 G. 3, c. 116.

Commissioners to cause duplicates of all conveyances, deeds, &c. to be registered and preserved in the chancery of Scotland; and a minute or docket of every conveyance, &c. to be entered and preserved in their office.

Original conveyance, deed, or duplicate thereof, or copy

V. That it shall and may be lawful for the said commissioners of his Majesty's woods, forests, land revenues, works, and buildings, on the sale of any teind, feu retour, or other duties, casualties, or rents, if such sale shall be made to the vassal in the feu, to grant a receipt for the purchase money or other consideration agreed to be given for the same, and which receipt shall also contain a declaration that on the next renewal of the investiture in favour of the vassal, or of his heirs or disposses, the charter, precept, or other deed to be granted by or on behalf of the crown shall contain a blench holding in lieu and place of the feu or other holding or duty in the original rights or investitures; and such receipt and declaration, delivered to the vassal so purchasing, on payment of the purchase money, shall be a sufficient renunciation and voucher to him or her, or his or her heirs and successors, until the renewal of such investiture, and shall be a sufficient warrant to the barons of the court of exchequer in Scotland, and all others, when a renewal of the investiture shall be required, to grant such renewed investiture with a blench holding.

VI. That it shall and may be lawful for the proprietors of entailed estates in Scotland, and for their trustees, and the tutors, curators, and administrators in law of such proprietors, to purchase the teind, feu retour, and other duties, casualties, rents, and all other the land revenues due to and exigible by the crown, and affecting such estates, and which the said commissioners are hereby authorized to sell and dispose of, and either to disburden their estates from the payment of such teind, feu retour, or other duty, casualty, or rent, or to make the purchase money of the same a debt and burden on such entailed estate, in like manner as the sum paid for redemption of the land tax is made a burden on entailed property in terms of an act passed in the forty-second year of the reign of his late Majesty king George the third, intituled *An Act for consolidating the Provisions of the several Acts passed for the Redemption and Sale of the Land Tax into One Act, and for making further Provision for the Redemption and Sale thereof; and for removing Doubts respecting the Right of Persons claiming to vote at Elections for Knights of the Shire and other Members to serve in Parliament, in respect of Messuages, Lands, or Tenements, the Land Tax upon which shall have been redeemed or purchased, or of any other act or acts of parliament in relation thereto now in force.*

VII. Provided always, That the said commissioners for the time being of his Majesty's woods, forests, land revenues, works, and buildings shall cause duplicates of all conveyances, deeds, and documents whereby any lands or other property or subjects in Scotland shall be hereafter purchased or taken in exchange by them for or on behalf of his Majesty, his heirs or successors, under the authority of this act, or which shall be conveyed or leased to his Majesty, his heirs or successors, or to any person in trust for him or them, and of all leases to be made or granted by the said commissioners under the authority of this act, of any lands or other heritable property or subjects of the crown in Scotland, and of all conveyances, deeds, and documents whereby any part of the lands or other property or subjects of the crown in Scotland shall be granted, sold, exchanged, or conveyed under the powers of this act, to be transmitted to the office of chancery of Scotland, there to be recorded or registered; and every such duplicate shall be there preserved and recorded among the other records and muniments relating to the lands or other property or subjects of the crown preserved in such office; and a minute or docket of every such conveyance, deed, or document shall be entered and preserved by the said commissioners of his Majesty's woods, forests, land revenues, works, and buildings, in their office.

VIII. That not only the original conveyance, deed, or other document by which any lands or other heritable property or subjects to which this act relates shall be disposed of under the provisions of this act, but also the duplicate thereof, to be so transmitted as aforesaid, or a copy

or extract of such duplicate, attested by the officer for the time being in whose custody the same shall remain, (and which copies the said officer is hereby authorised and required to grant to any person applying for the same, on payment of a fee of one shilling for every such copy, and if the same shall consist of more than seventy-two words, then of a further fee of one shilling for every seventy-two words over the first seventy-two words,) shall be admitted in all courts as evidence of the right and title of the purchasers, grantees, lessees, and all persons claiming under them, to the subjects to which such conveyances, deeds, or other documents shall relate.

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or extract of same duly attested, to be in all courts evidence of right and title.

IX. That every conveyance, deed, or other document whereby any lands or other heritable property or subjects to which this act relates, or any term of years or interest therein, shall be conveyed or leased to his Majesty, his heirs or successors, or to a trustee or trustees for his Majesty, his heir or successors, under the authority of this act, shall, without any other enrolment or registration thereof than in the office of chancery in Scotland as aforesaid, be of the like force in favour of his Majesty, his heirs and successors, as if the same had been or was enrolled or registered in the books of council and session, or in the general or special register of sasines in the county, shire, or stewartry within which the lands or other heritable property or subjects shall be situate.

Every deed enrolled in chancery in Scotland to be of like force as if registered in books of council and session or register of sasines.

X. Provided always, That a note or memorandum of every such conveyance, deed, or other document, setting forth the date thereof, the names of the disponent or grantor and disponee or grantee, and the leading names of the lands or heritages, and of the county or counties wherein the same are situated, shall, within fourteen days after the execution thereof, or as soon thereafter as possible, be entered by the grantee in the minute book of the register of sasines at Edinburgh, of the date on which such note or memorandum is presented, and also upon the margin of the entry in the register of sasines, general or particular, of the last instrument of sasine in the property of the lands or heritages alienated, recorded in such register; and such entries shall be so made without fee or reward payable therefor.

A memorandum of every conveyance, setting forth the several particulars, to be entered in the minute book of the register, of sasines within 14 days after execution thereof.

XI. That all sums to be received under the authority of this act, for or in respect of any sales, or for equality of exchange on any exchange of any of the said lands or other property or subjects to which this act relates, shall be applied in the payment of the purchase monies on the purchase of any lands or other property or subjects under the authority of this act, or in the purchase of any lease of any part of the lands and other property or subjects of the crown which may be bought in under the authority of this act, and in payment of the monies to be paid for equality of exchange on any exchange to be made under the authority of this act, and of the expences of the said commissioners of his Majesty's woods, forests, land revenues, works and buildings in or relating to such purchases and exchanges, and in the payment of the monies to be paid for the redemption or purchase of any land tax which may be redeemed or purchased by the said commissioners, and of the expences of the said commissioners in or relating to such purchase or redemption, and in the discharge of any incumbrances or burthens which now or hereafter are or may be charged upon or affect any of the said lands or other property and subjects of the crown to which this act relates.

Application of purchase monies.

XII. That it shall be lawful for the said commissioners for the time being of his Majesty's woods, forests, land revenues, works and buildings to cause any sums which shall be received for or in respect of any sales or exchanges of any of the lands or other property or subjects of the crown to which this act relates, and which may not be immediately wanted for the purposes to which the same are hereby made applicable, to be laid out in the meantime in the purchase of three pounds per centum consolidated bank annuities, or three pounds per centum reduced bank annuities, in the name of the lord high treasurer, or the com-

Sums not immediately wanted, to be invested in the public funds.

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missioners of his Majesty's treasury, in which name the governor and company of the bank of England are hereby authorized and required to permit transfers to be made of the annuities to be so purchased, and such transfers shall be accepted by the said commissioners of his Majesty's woods, forests, land revenues, works and buildings in the name and on behalf of the said lord high treasurer, or the said commissioners of his Majesty's treasury.

Dividends of
stocks and an-
nuities to be by
bank of Eng-
land placed to
credit of the
commissioners.

XIII. That the amount of the dividends of the stocks and annuities to be purchased as last aforesaid shall from time to time, as the said dividends shall become due, be placed by the governor and company of the bank of England to the credit of the said commissioners of his Majesty's woods, forests, land revenues, works and buildings in their account with the bank; and so much of the dividends as shall have become due in respect of stocks purchased with monies which shall have arisen from the sale or exchange of any of the lands or other property and subjects of the crown to which this act relates shall be applied and disposed of by the said commissioners in the same manner and for the same purposes as and considered in all respects as part of the annual income of the lands and other property and subjects of the crown in Scotland.

Commissioners
of treasury au-
thorized to sell
out all or any
such stocks or
annuities, when
expedient.

XIV. That when and so often as it shall be necessary or expedient to raise by sale of any of the stocks or annuities so to be purchased as aforesaid any sum of money for the purposes to which monies to be received under the authority of this act from sales or exchanges of any of the lands and other property and subjects of the crown are hereby respectively made applicable, it shall be lawful for the lord high treasurer, or the commissioners of his Majesty's treasury for the time being, to sell out all or any part of the said stocks or annuities; and the sums raised by the sale of the said stocks and annuities shall be paid into the bank of England, and be placed to the credit of the said commissioners of his Majesty's woods, forests, land revenues, works and buildings, to be applied and disposed of by the said commissioners in the same manner and for the same purposes as and considered in all respects as part of the sums to be received under the authority of this act for or in respect of any sales or exchanges of any of the lands and other property and subjects of the crown in Scotland.

Transfer of
stock.

XV. That all sums of stock which shall be sold by the said lord high treasurer or the commissioners of his Majesty's treasury, under the provisions herein-before contained, may be transferred by any person to be appointed by him or them for that purpose by any letter of attorney under the hand and seal of the said lord high treasurer, or under the hands and seals of any three of the said commissioners, for the time being, and attested by two or more credible witnesses; and the said governor and company of the bank of England shall and they are hereby authorized and required to permit all such transfers to be so made.

Application of
the annual in-
come to which
this act relates.

XVI. That the annual income of all the said lands and other property and subjects of the crown to which this act relates, and all sums received in respect of feus, leases, or otherwise, for or in respect of the said lands and other property and subjects (except from sales or exchanges), shall be applied in manner following; (that is to say,) in the first place, in payment of the costs, charges, and expences attending the management of the said lands and other property and subjects of the crown; in the next place, in payment and discharge of any annual sum or sums of money or any pensions already lawfully charged or to be charged thereon respectively, and in the payment of any other principal sum and the interest of any principal sum or sums of money already or which may be hereafter lawfully charged upon the said lands and other property and subjects; and, subject to the applications aforesaid, the said annual income shall, during the life of his present Majesty, be carried to and made part of the consolidated fund of the united kingdom of Great Britain and Ireland, and from and after the demise of his

Annual in-
come, subject
as aforesaid, to
be carried to
and made part
of consolidated
fund.

present Majesty (whom God long preserve) shall be payable and paid to the king's Majesty, his heirs and successors.

XVII. That the said commissioners for the time being of his Majesty's woods, forests, land revenues, works, and buildings may, so long as they shall find it necessary so to do, keep an account with any of the chartered banks in Scotland; and the said commissioners, observing the rules and regulations hereby or by the said act passed in the tenth year of his late Majesty king George the fourth prescribed, shall not be answerable, either collectively or individually, for any money which they the said commissioners shall have paid into the said banks, or any of them, or any branch thereof.

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Commissioners may keep accounts with any of the chartered banks of Scotland.
Irresponsibility of commissioners.

XVIII. That the passing of this act shall not vacate the appointment of any chamberlain or collector of the revenues and profits of any of his Majesty's lands or other property or subjects to which this act relates, or to vacate, render void or voidable any security given by or for such chamberlain or collector, but every such chamberlain or collector who shall be in office at the time of the passing of this act shall continue in office until his death or resignation, or until he shall be removed by the commissioners for the time being of his Majesty's woods, forests, land revenues, works, and buildings, or until his appointment shall cease under the provisions herein contained or referred to; and any security given for the good conduct of such chamberlain or collector shall stand and remain as a security for the due discharge and performance by him of the duties hereby imposed upon him.

Not to vacate the appointment of any chamberlain or collector of the revenues to which this act relates, or to render void any security given by or for him.

XIX. And whereas certain retour duties, casualties, and other duties and rents pertaining to the land revenues of the crown and prince and steward of Scotland, have hitherto been received by the officers of the courts of justice, or by the sheriffs of the counties, shires, or stewartries of Scotland respectively; and it will be most convenient that the same should be collected and received by the agents or collectors thereof appointed or to be appointed under the provisions of this act; be it therefore further enacted, That when and so soon as such agents or collectors shall be appointed, such retour duties, casualties, and other duties and rents, pertaining to the land revenues of the crown and prince and steward of Scotland, shall no longer be collected by the officers of the courts of justice, or by the sheriffs or other officers who have heretofore collected and received them, but shall be collected and received by the collectors to be for that purpose appointed; and such collectors shall be entitled to demand and receive the same fees which the said officers of the courts of justice, sheriffs, or other officers have heretofore been entitled to demand and receive upon the payment of any of the said retour duties, casualties, or other duties or rents respectively.

Retour duties, &c. no longer to be received by officers of courts of justice, or by sheriffs, but by collectors especially appointed.

Fees as heretofore.

XX. That all the powers and provisions in this act contained shall extend, and be held and construed to extend, to the lands, revenues, and other property and subjects of the prince and steward of Scotland; the annual income thereof, or the monies to arise by the sale or other disposition thereof, to be applied and appropriated by the said commissioners of his Majesty's woods, forests, land revenues, works, and buildings to and for such purposes and in such manner as the same are now by law applicable.

This act to extend to the lands, &c. of the prince and steward of Scotland; Income to be applied as at present.

XXI. Provided always, That nothing herein contained shall extend or be construed to extend to abridge or interfere with any rights of his Majesty, his heirs or successors, or of the lord high treasurer or the commissioners of his Majesty's treasury, or the chancellor of the exchequer, for the time being, or any grantee of the crown, in respect of any appointment lawfully made by his Majesty or the said lord high treasurer or commissioners, or the chancellor of the exchequer, or such grantee, previously to the passing of this act.

Saving of rights.

XXII. That it shall and may be lawful for the said commissioners of his Majesty's woods, forests, land revenues, works, and buildings to

Commissioners may sue and be

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sued in the
name of the
lord advocate.
Service of pro-
cess.

sue and be sued in any court of law in Scotland in the name of his Majesty's lord advocate of Scotland for the time being; and it is hereby declared, that service of any legal proceedings upon the said lord advocate, and an intimation of such service to the said commissioners by letter addressed to the first commissioner of woods, forests, land revenues, works, and buildings, London, and put into the General Post Office, shall be deemed and held to be sufficient service on the said commissioners, any law or practice to the contrary notwithstanding.

SCHEDULE to which this Act refers.

Form of Conveyance on Sales by the Commissioners of his Majesty's Woods, Forests, Land Revenues, Works, and Buildings.

To all and sundry to whose knowledge these presents shall come :
Know ye, That we whose names are inserted in the testing clause of these presents, two of the commissioners of his Majesty's woods, forests, land revenues, works, and buildings, on behalf of his Majesty, and under the authority of an act passed [*here insert the title of this act*], in consideration of the sum of _____ paid by *E. F.* [*here describe mode of payment*], have sold, alienated, and in feu farm disposed, as we by these presents, on behalf of his Majesty, sell, alienate, and in feu farm dispose, from his Majesty, his heirs and successors, to and in favour of the said *E. F.*, his heirs and assignees whomsoever, heritably and irredeemably, all and whole the lands of [*here describe the lands or other subjects sold*], [*if teinds are sold without lands, here omit description of lands, and insert*] all and whole the teinds, parsonage, and vicarage of the lands of _____ pertaining to _____ [*here insert name of owner*], lying in the parish of _____ and sheriffdom of _____ with all burdens imposed or to be imposed thereon, lying within the parish of _____ and shire of _____ [*and if the teinds, mills, and fishings be also purchased with the lands, add*] together with the whole teinds, both great and small, as well parsonage as vicarage thereof, with the mill of _____ with the multures, sequels, and others thereto pertaining, and with the right of salmon-fishing in the river _____ so far as the said river runs through or is bounded by the said lands [*here insert any burdens, conditions, or reservations stipulated*], to be holden and to hold the whole lands [*if teinds only are conveyed, insert "teinds"*] and others above specified by the said *E. F.* and his foresaids, of his Majesty, his heirs and successors, superiors of the same, in Free Blench farm, fee, and heritage for ever, giving therefore yearly a penny Scots money at Whitsunday yearly, if asked only in name of Blench farm. It witness whereof we _____ and _____ two of the commissioners aforesaid, have hereunto set our hands this _____ day _____ eighteen hundred _____

I. K. Witness.
G. H. Witness.

A. B.
C. D.

Form of Receipt and Declaration.

Received by us, two of the commissioners of his Majesty's woods, forests, land revenues, works, and buildings, on behalf of his Majesty, from *E. F.* the sum of _____ being the consideration money paid by him for the feu duty [*or any other duty specified*] payable to his Majesty for and furth of the lands of _____ pertaining to the said _____

E. F.; of which feu duty [or other duty] the said E. F., his heirs and assigns, are hereby for ever discharged: Hereby declaring, that in any renewal of the investiture of the said lands on behalf of his Majesty, this shall be a sufficient warrant to the barons of the court of exchequer in Scotland, and all others, to grant such renewed investiture in the form of a blench holding.

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Witness our hands this
I. K. Witness.
G. H. Witness.

day of

A. B.
C. D.

[No. IX.] 3 and 4 W. IV. c. 81.—An Act to authorize the Application of Part of the Land Revenue of the Crown for providing Fixtures, Furniture, Fittings, and Decorations for Buckingham Palace. [28th August 1833.]

WHEREAS by an act passed in the tenth year of the reign of his late Majesty king George the fourth, intituled *An Act to consolidate and amend the Laws relating to the Management and Improvement of His Majesty's Woods, Forests, Parks, and Chases; of the Land Revenue of the Crown within the Survey of the Exchequer in England; and of the Land Revenue of the Crown in Ireland; and for extending certain Provisions relating to the same to the Isles of Man and Alderney*, it was enacted that all the land revenues whatsoever (advowsons of churches and vicarages only excepted) which belonged to his Majesty within the ordering or survey of the court of exchequer in England or Wales, in Ireland, in the Isle of Man and its dependencies, and the Isle of Alderney, should be under the management of the commissioners of his Majesty's woods, forest, and land revenues, and of their successors; and it was thereby further enacted, that the annual income of all the said possessions and land revenues of the crown to which that act related, including fines on leases, and all other sums received in respect of such leases, or otherwise for or in respect of the said possessions and land revenues (except from sales or exchanges), should be applied in manner following; that is to say, in the first place, in payment of the costs, charges and expences attending the management of the said possessions and land revenues; in the next place, in the payment and discharge of any annual sum or sums of money, or any pensions, then already charged or to be charged thereon respectively, and in the payment of any other principal sum, and the interest of any principal sum or sums of money which was then already or might be thereafter charged upon the said possessions and land revenues; in the next place, so much of the monies to arise from the said annual income as the lord high treasurer or the commissioners of his Majesty's treasury for the time being should from time to time think proper should be applied towards the payment and discharge of the costs, charges, and expences of the repairs, alterations, and improvements of Buckingham-house, and the buildings, offices, and grounds appertaining and belonging thereto, provided that the sum to be so applied under the now reciting act to such repairs, alterations, and improvements should not exceed the sum of one hundred and fifty thousand pounds, over and above the sum of three hundred and forty-six thousand pounds which had been then already applied thereto previous to the passing of the now reciting act; and, subject to the applications aforesaid, the said annual income should during the life of his then present Majesty be carried to and made part of the consolidated fund of the united kingdom of Great Britain and Ireland, and from and after the demise of his then present Majesty should be payable and paid to the king's Majesty, his heirs and successors: And whereas by an act passed in the first year of the reign of his present Majesty, intituled *An Act for the Support of His Majesty's* 1 W. 4, c. 25.

No. IX.
3 & 4 W. 4,
c. 81.

2 W. 4, c. 1.

Household, and of the Honor and Dignity of the Crown of the United Kingdom of Great Britain and Ireland, it was (amongst other things) enacted, that the produce of the hereditary rates, duties, payments, and revenues in England and Ireland respectively therein mentioned, which at the time of the decease of his late Majesty king George the fourth made part of the consolidated fund of the united kingdom of Great Britain and Ireland, and also the small branches of the hereditary revenue, and the produce of the hereditary casual revenues, therein mentioned, which had accrued since the decease of his said late Majesty, and which should not have been applied and distributed in the payment of any charge thereupon respectively, or which should accrue during the life of his present Majesty, should be carried to and made part of the consolidated fund of the united kingdom of Great Britain and Ireland, and after the decease of his present Majesty all the said hereditary revenues, including the duties on beer, ale, and cider, should be payable and paid to his heirs and successors: And whereas by an act passed in the second year of the reign of his present Majesty, intituled *An Act for uniting the Office of the Surveyor General of His Majesty's Works and Public Buildings with the Office of the Commissioners of His Majesty's Woods, Forests, and Land Revenues and for other Purposes relating to the Land Revenues*, it was enacted, that it should be lawful for his Majesty, his heirs and successors, by letters patent under the great seal, to appoint, in the place of the commissioners of his Majesty's woods, forests, and land revenues, and of the surveyor general of his Majesty's works and public buildings, any persons, not exceeding three in number, to be commissioners for performing the duties and exercising the powers then performed and exercisable by the commissioners of his Majesty's woods, forests, and land revenues, and the duties and powers then performed and exercisable by the surveyor general of his Majesty's works and public buildings, and that the persons so first appointed and their successors should be called "The Commissioners of his Majesty's Woods, Forests, Land Revenues, Works and Buildings;" and the said commissioners were by the said act empowered to exercise and carry into effect all the powers and provisions contained in the said recited act of the tenth year of the reign of his late Majesty king George the Fourth, either expressly or by reference to any other acts: And whereas the repairs, alterations, and improvements of Buckingham palace, and the buildings, offices, and grounds appertaining thereto, in which the said sum of one hundred and fifty thousand pounds was by the said recited act of the tenth year of the reign of his late Majesty king George the Fourth authorized and directed to be laid out and expended, are nearly completed and finished; and in order to render the said palace a suitable residence for his Majesty it is expedient that a certain portion of the produce arising to his Majesty by the rents of messuages, lands, and other hereditaments in England and Ireland, and by the fines on leases of the same, or any of them now forming part of the hereditary revenues belonging to his Majesty in right of his crown, under the care and management of the commissioners of his Majesty's woods, forests, land revenues, works, and buildings, by virtue of the said recited acts of the tenth year of the reign of his late Majesty and the second year of the reign of his present Majesty, should be made applicable, by and with the consent and approbation of the lord high treasurer or the commissioners of his Majesty's treasury for the time being, to the purpose of defraying the costs, charges, and expences of completing and perfecting the finishings of the said palace, and of providing fixtures, furniture, and decorations necessary and requisite for the same: Be it therefore enacted, &c. That it shall be lawful for the said lord high treasurer or the commissioners of his Majesty's treasury for the time being, or any three of them, from time to time to direct and authorize the commissioners of his Majesty's woods, forests, land revenues, works, and buildings to pay and apply, out of the produce of the said hereditary land revenues of the crown

A sum not exceeding 55,000*l.* to be paid out of the hereditary land revenues of the crown for ex-

now under their care and management as aforesaid, such sum or sums of money as they shall think necessary and expedient, not exceeding in the whole the sum of fifty-five thousand pounds, towards the payment and discharge of the costs, charges, and expences of such finishings, fixtures, furniture, and decorations.

No. IX.
3 & 4 W. 4,
c. 81.

pences of finish-
palace.

ings, fixtures, and furniture of Buckingham
II. That the payment of such sum or sums of money herein-before authorized to be made shall be prior to and take precedence of the payment or application of any sum or sums of money arising from the said land revenues for the purposes of the consolidated fund; but that the said land revenues shall nevertheless remain subject and liable to the costs and charges attending the management thereof, and the payment or discharge of any sum or sums of money, or any pensions, which may be now already charged thereon, or to the payment whereof the same now are or may hereafter become liable under or by virtue of any act or acts of parliament relating to the said land revenues, any act or acts of parliament relating to or concerning the said revenues to the contrary thereof in anywise notwithstanding.

Such payments
to have preced-
ence of all
others arising
from the land
revenues.

[No. X.] 4 & 5 W. IV. c. 59.—An Act to extend the Term of an Act of the First and Second Years of his present Majesty, for ascertaining the Boundaries of the Forest of Dean, and for inquiring into the Rights and Privileges claimed by Free Miners of the Hundred of Saint Briavel's, to the Twenty-first Day of January One thousand eight hundred and thirty-five, and from thence to the End of the then next Session of Parliament. [13th August 1834.]

WHEREAS an act was passed in the first and second years of the reign of his present Majesty, intituled *An Act for ascertaining the Boundaries of the Forest of Dean, and for inquiring into the Rights and Privileges claimed by Free Miners of the Hundred of Saint Briavel's, and for other Purposes*: And whereas the commission directed by the said recited act to be issued under the great seal of his Majesty's court of exchequer bears date the twenty-first day of January one thousand eight hundred and thirty-two: And whereas the time within which the commissioners were by the said recited act directed to make their reports to the lord high treasurer or lords commissioners of his Majesty's treasury was enlarged by an act passed in the third and fourth years of the reign of his present Majesty, intituled *An Act to extend the twenty-first Day of January one thousand eight hundred and thirty-four, and to the end of the then next Session of Parliament, the time for carrying into execution an Act of the First and Second Years of his present Majesty, for ascertaining the Boundaries of the Forest of Dean, and for inquiring into the Rights and Privileges claimed by Free Miners of the Hundred of Saint Briavel's, and for other Purposes*: And whereas it is expedient that the time for making the said several reports should be further enlarged: Be it therefore enacted, &c., That the time for making the several reports directed to be made by the said commissioners under the authority of the said recited act of the first and second years of the reign of his present Majesty shall be extended until the twenty-first day of January one thousand eight hundred and thirty-five, and from thence to the end of the then next session of parliament.

1 & 2 W. 4,
c. 12.

3 & 4 W. 4,
c. 38.

Time for mak-
ing reports un-
der 1 & 2 W. 4,
extended for
one year from
21st Jan. 1835.

II. That all the powers, provisions, authorities, regulations, directions, clauses, penalties, forfeitures, matters, and things in the said recited act of the first and second years of the reign of his present Majesty contained, shall extend and be construed to extend to this present act, and shall operate and be in force during the said additional period, as fully and effectually to all intents and purposes as if the same

Powers of 1 &
2 W. 4, c. 12.
extended to this
act.

No. X.
4 & 5 W. 4,
c. 59.

powers, authorities, provisions, regulations, directions, ~~clauses~~, penalties, forfeitures, matters, and things were particularly repeated and re-enacted in the body of this act, and made expressly applicable thereto, and as if the time for the making of the said several reports by the said commissioners as aforesaid had been therein originally extended to the said additional period.

[No. XI.] 5 & 6 W. IV. c. 58.—An act to amend the Acts relating to the Hereditary Land Revenues of the Crown in Scotland.
[9th September 1835.]

WHEREAS, &c. [Recite the titles of the 6 G. 4, c. 17; 10 G. 4, c. 50; 2 W. 4, c. 1; 2 & 3 W. 4, c. 112; 3 & 4 W. 4, c. 69]: And whereas doubts have arisen, in consequence of the said acts, as to the powers and authorities of the commissioners of his Majesty's treasury in relation to the recovery, management, superintendence, and disposition of the interests of his Majesty, his heirs and successors, in right of his crown, as ultimus Hæres, and in cases of bastardy, in Scotland; and it is expedient that such doubts should be removed: Be it therefore declared and enacted, &c., That all powers and authorities for the ascertaining and recovering, and for the management, superintendence, and care of all rights and interests of his Majesty, his heirs and successors, in right of his crown, in Scotland, as ultimus Hæres, or in cases of bastardy, or by reason of any forfeiture whatsoever, shall be and are hereby declared to be vested in the lord high treasurer or the commissioners of his Majesty's treasury, or any three or more of them, for the time being, in the same manner and to the same extent as such powers and authorities were vested in the lord high treasurer or the commissioners of the treasury for the time being prior to the passing of any of the said recited acts; any thing in the said acts or either of them to the contrary notwithstanding.

Powers to be vested in the lord high treasurer or the commissioners of the treasury.

All former acts of commissioners of the treasury to be valid.

II. And be it further declared and enacted, That all grants heretofore made, and all acts, matters, and things, done by the commissioners of his Majesty's treasury, or any three or more of them, in relation to any such rights and interests in Scotland, since the passing of the said recited acts of the second and third years and of the third and fourth years of the reign of his present Majesty, in exercise of the powers and authorities vested in them by law or usage prior to the passing of any of the said acts, shall be and are hereby declared to be good, valid, and effectual to all intents and purposes, any thing in the said recited acts or either of them, or of any other act or acts of parliament, to the contrary notwithstanding.

His Majesty may grant sites for churches, &c. out of land revenues in Scotland.

III. And whereas the said last-recited act does not enable his Majesty to grant any land or building, part of the possessions and land revenues of the crown in Scotland, for the purposes specified in the said recited act of the tenth year of the reign of his late Majesty king George the fourth with respect to the possessions and land revenues of the crown to which that act relates; and it is desirable that his Majesty, his heirs and successors, should be at liberty to grant any lands or hereditaments, part of the possessions and land revenues of the crown in Scotland, for any of the purposes herein mentioned, whenever he or they shall be graciously pleased so to do: Be it therefore enacted, That the king's Majesty, his heirs and successors, shall at any time hereafter have full power and authority, out of the possessions and land revenues of the crown in Scotland, to give and grant to and vest in any body politic or corporate, or any person or persons whomsoever, and their heirs and successors respectively, for such estate or interest therein as to his Majesty, his heirs and successors, shall seem meet, any building proper to be used as or converted into, or any ground proper for the site of, any church or chapel, with or without a cemetery or burial

ground thereto, or any ground proper for a cemetery, or burial ground to any church or chapel, and any house with its appurtenances, and with or without a garden thereto, proper for the residence of the spiritual person who may serve such church or chapel, or any ground proper for the site or sites of any such residence, or of any parochial or district school, with or without a garden thereto, any thing in the said act of the third and fourth years of the reign of his present Majesty, or any other law or statute, to the contrary in anywise notwithstanding; and such body or bodies politic or corporate, or person or persons, and their heirs, successors, executors, or administrators, shall have full capacity and ability to take, hold, and enjoy the same; and whenever it shall be the pleasure of his Majesty, his heirs or successors, to make a grant for any of the purposes aforesaid, it shall be lawful for the lord high treasurer, or the commissioners of his Majesty's treasury for the time being, or any three or more of them, to issue a warrant under his or their hand or hands to any such body or bodies politic or corporate, or person or persons as aforesaid, which warrant shall be exempt from any stamp duty whatsoever: Provided always, That nothing in this act contained shall extend or be construed to extend to enable his Majesty, his heirs or successors, to grant more than five statute acres in any one grant for any of the purposes aforesaid, or to grant any premises in any one instance which shall exceed in value the sum of one thousand pounds; and that all such grants shall be carried into effect by charters and other instruments, according to the law and practice of Scotland, and not otherwise.

IV. That a minute or docket of every such grant or warrant shall be entered and preserved by the commissioners of his Majesty's woods, forests, land revenues, works, and buildings, in their office.

V. Provided always, That the commissioners of his Majesty's woods, forests, land revenues, works, and buildings for the time being shall, in every report which shall be made by them to the king's most excellent Majesty and to both houses of parliament touching or concerning the land revenue of the crown, from and after the passing of this act, certify and report every grant which shall have been made under and by virtue of the provisions of this act since the time of the making their last preceding report, and to whom and for what purpose the same shall have been made, and what land or ground shall be comprised therein, and all other particulars relating thereto.

No. XI.
5 & 6 W. 4,
c. 58.

Limitation of
grants.

Minutes to be
preserved.

Commissioners
of woods, in
their reports, to
certify all
grants made
under this act.

PART III.

Personal Property and Contracts.

CLASS 1. Patents, Literary Property, &c.

2. Trade, Navigation, Ship-owners, Mariners, and Fisheries.
3. Insurance.
4. Bills of Exchange and Promissory Notes.
5. Usury.
6. Annuities.
7. Gaming.
8. Stock-Jobbing.
9. Sale of Offices.
10. Buying of Titles.
11. Transfer of Stock.
12. Restitution of Stolen Property.
13. Executors and Administrators.
- *14. Sales.
- *15. Saving Banks.

(* New Titles.)

CLASS. I.

PATENTS, LITERARY PROPERTY, PROPERTY IN PRINTS,
BUSTS, AND PATENTS OF MANUFACTURES.

[No. I.] 3 W. IV. c. 15.—An Act to amend the Laws
relating to Dramatic Literary Property.

[10th June 1833.]

54 G. 3, c. 156. WHEREAS by an act passed in the fifty-fourth year of the reign of his late Majesty king George the third, intituled *An Act to amend the several Acts for the Encouragement of Learning, by securing the Copies and Copyright of printed Books to the Authors of such Books, or their Assigns*, it was amongst other things provided and enacted, that from and after the passing of the said act the author of any book or books composed, and not printed or published, or which should thereafter be composed and printed and published, and his assignee or assigns,

should have the sole liberty of printing and re-printing such book or books for the full term of twenty-eight years, to commence from the day of first publishing the same, and also, if the author should be living at the end of that period, for the residue of his natural life: And whereas it is expedient to extend the provisions of the said act; be it therefore enacted, &c., That from and after the passing of this act the author of any tragedy, comedy, play, opera, farce, or any other dramatic piece or entertainment, composed, and not printed and published by the author thereof or his assignee, or which hereafter shall be composed, and not printed or published by the author thereof or his assignee, or the assignee of such author, shall have as his own property the sole liberty of representing, or causing to be represented, at any place or places of dramatic entertainment whatsoever, in any part of the United Kingdom of Great Britain and Ireland, in the isles of Man, Jersey, and Guernsey, or in any part of the British dominions, any such production as aforesaid, not printed and published by the author thereof or his assignee, and shall be deemed and taken to be the proprietor thereof; and that the author of any such production, printed and published within ten years before the passing of this act by the author thereof or his assignee, (1) or which shall hereafter be so printed and published, or the assignee of such author, shall, from the time of passing this act, or from the time of such publication respectively, until the end of twenty-eight years from the day of such first publication of the same, and also, if the author or authors, or the survivor of the authors, shall be living at the end of that period, during the residue of his natural life, have as his own property the sole liberty of representing, or causing to be represented, the same at any such place of dramatic entertainment as aforesaid, and shall be deemed and taken to be the proprietor thereof: Provided nevertheless, that nothing in this act contained shall prejudice, alter, or affect the right or authority of any person to represent or cause to be represented, at any place or places of dramatic entertainment whatsoever, any such production as aforesaid, in all cases in which the author thereof or his assignee shall, previously to the passing of this act, have given his consent to or authorized such representation, but that such sole liberty of the author or his assignee shall be subject to such right or authority.

II. That if any person shall, during the continuance of such sole liberty as aforesaid, contrary to the intent of this act, or right of the author or his assignee, represent, or cause to be represented, without the consent in writing of the author or other proprietor first had and obtained, at any place of dramatic entertainment within the limits aforesaid, any such production as aforesaid, or any part thereof, every such offender shall be liable for each and every such representation to the payment of an amount not less than forty shillings, or to the full amount of the benefit or advantage arising from such representation, or the injury or loss sustained by the plaintiff therefrom, whichever shall be the greater damages, to the author or other proprietor of such production so represented contrary to the true intent and meaning of this act, to be recovered, together with double costs of suit, by such author or other proprietors, in any court having jurisdiction in such cases in that part of the said United Kingdom or of the British dominions in which the offence shall be committed; and in every such proceeding where the sole liberty of such author or his assignee as aforesaid shall be subject to such right or authority as aforesaid, it shall be sufficient for the plaintiff to state that he has such sole liberty, without stating

No. I.
3 W. 4, c. 15.

The author of any dramatic piece shall have as his property the sole liberty of representing it or causing it to be represented at any place of dramatic entertainment.

Provido as to cases where previous to the passing of this act, a consent has been given.

Penalty on persons performing pieces contrary to this act.

(1) The assignee of the copyright of a dramatic work printed and published within ten years before the passing of this act (or subsequently to the act no express reservation of the exclusive right to the representation being made by the author), and not the author who has assigned such copyright, is entitled under the above section to the sole right of representing the piece, or causing it to be represented. *Cumberland v. Planché*, 3 Nev. & M. 587.

No. I.
3 W. 4, c. 15.

Limitation of
actions.

Explanation of
words.

the same to be subject to such right or authority, or otherwise mentioning the same.

III. Provided nevertheless, That all actions or proceedings for any offence or injury that shall be committed against this act shall be brought, sued, and commenced within twelve calendar months next after such offence committed, or else the same shall be void and of no effect.

IV. That whenever authors, persons, offenders, or others are spoken of in this act in the singular number or in the masculine gender, the same shall extend to any number of persons and to either sex.

[No. II.] 5 & 6 W. 4, c. 65.—An Act for preventing the Publication of Lectures without Consent.

[9th September 1835.]

Authors of lectures, or their assigns, to have the sole right of publishing them.

Penalty on other persons publishing, &c. lectures without leave.

WHEREAS printers, publishers, and other persons have frequently taken the liberty of printing and publishing lectures delivered upon divers subjects, without the consent of the authors of such lectures, or the persons delivering the same in public, to the great detriment of such authors and lecturers: Be it enacted, &c., That from and after the first day of September one thousand eight hundred and thirty-five the author of any lecture or lectures, or the person to whom he hath sold or otherwise conveyed the copy thereof, in order to deliver the same in any school, seminary, institution, or other place, or for any other purpose, shall have the sole right and liberty of printing and publishing such lecture or lectures; and that if any person shall, by taking down the same in short hand or otherwise in writing, or in any other way, obtain or make a copy of such lecture or lectures, and shall print or lithograph or otherwise copy and publish the same, or cause the same to be printed, lithographed, or otherwise copied and published, without leave of the author thereof, or of the person to whom the author thereof hath sold or otherwise conveyed the same, and every person who, knowing the same to have been printed or copied and published without such consent, shall sell, publish, or expose to sale, or cause to be sold, published, or exposed to sale any such lecture or lectures, shall forfeit such printed or otherwise copied lecture or lectures, or parts thereof, together with one penny for every sheet thereof which shall be found in his custody, either printed, lithographed, or copied, or printing, lithographing, or copying, published or exposed to sale, contrary to the true intent and meaning of this act, the one moiety thereof to his Majesty, his heirs or successors, and the other moiety thereof to any person who shall sue for the same, to be recovered in any of his Majesty's courts of record in Westminster by action of debt, bill, plaint, or information, in which no wager of law,essoign, privilege, or protection, or more than one imparlance, shall be allowed.

Penalty on printers or publishers of newspapers publishing lectures without leave.

Persons having leave to attend lectures not on that account licensed to publish them.

Act not to prohibit the publishing of lectures after ex-

II. That any printer or publisher of any newspaper who shall, without such leave as aforesaid, print and publish in such newspaper any lecture or lectures, shall be deemed and taken to be a person printing and publishing without leave within the provisions of this act, and liable to the aforesaid forfeitures and penalties in respect of such printing and publishing.

III. That no person allowed for certain fee and reward, or otherwise, to attend and be present at any lecture delivered in any place, shall be deemed and taken to be licensed or to have leave to print, copy, and publish such lectures only because of having leave to attend such lecture or lectures.

IV. Provided always, That nothing in this act shall extend to prohibit any person from printing, copying, and publishing any lecture or lectures which have or shall have been printed and published with leave of the authors thereof or their assignees, and whereof the time

hath or shall have expired within which the sole right to print and publish the same is given by an act passed in the eighth year of the reign of queen Anne, intituled *An Act for the Encouragement of Learning, by vesting the Copies of printed Books in the Authors or Purchasers of such Copies during the Times therein mentioned*, and by another act passed in the fifty-fourth year of the reign of king George the third, intituled *An Act to amend the several Acts for the Encouragement of Learning, by securing the Copies and Copyright of printed Books to the Authors of such Books, or their Assigns*, or to any lectures which have been printed or published before the passing of this act.

No. II.
5 & 6 W. 4,
c. 65.

piration of the
copyright.
8 Anne, c. 19.
54 G. 3, c. 156.

V. Provided further, That nothing in this act shall extend to any lecture or lectures, or the printing, copying, or publishing any lecture or lectures, or parts thereof, of the delivering of which notice in writing shall not have been given to two justices living within five miles from the place where such lecture or lectures shall be delivered two days at the least before delivering the same, or to any lecture or lectures delivered in any university or public school or college, or on any public foundation, or by any individual in virtue of or according to any gift, endowment, or foundation; and that the law relating thereto shall remain the same as if this act had not been passed.

Act not to ex-
tend to lectures
delivered in un-
licensed places,
&c.

[No. III.] 5 & 6 W. IV. c. 83.—An Act to amend the Law touching Letters Patent for Inventions.

[10th September 1835.]

WHEREAS it is expedient to make certain additions to and alterations in the present law touching letters patent for inventions, as well for the better protecting of patentees in the rights intended to be secured by such letters patent, as for the more ample benefit of the public from the same: Be it enacted, &c., That any person who, as grantee, assignee, or otherwise, hath obtained or who shall hereafter obtain letters patent, for the sole making, exercising, vending, or using of any invention, may, if he think fit, enter with the clerk of the patents of England, Scotland, or Ireland, respectively, as the case may be, having first obtained the leave of his Majesty's attorney general or solicitor general in case of an English patent, of the lord advocate or solicitor general of Scotland in the case of a Scotch patent, or of his Majesty's attorney general or solicitor general for Ireland in the case of an Irish patent, certified by his fiat and signature, a disclaimer of any part of either the title of the invention or of the specification, stating the reason for such disclaimer, or may, with such leave as aforesaid, enter a memorandum of any alteration in the said title or specification, not being such disclaimer or such alteration as shall extend the exclusive right granted by the said letters patent; and such disclaimer or memorandum of alteration, being filed by the said clerk of the patents, and enrolled with the specification, shall be deemed and taken to be part of such letters patent or such specification in all courts whatever: Provided always, that any person may enter a caveat, in like manner as caveats are now used to be entered, against such disclaimer or alteration; which caveat being so entered shall give the party entering the same a right to have notice of the application being heard by the attorney general or solicitor general or lord advocate respectively: Provided also, That no such disclaimer or alteration shall be receivable in evidence in any action or suit (save and except in any proceeding by *scire facias*) pending at the time when such disclaimer or alteration was enrolled, but in every such action or suit the original title and specification alone shall be given in evidence, and deemed and taken to be the title and specification of the invention for which the letters patent have been or shall have been granted: Provided also, That it shall be lawful for the

Any person
having obtain-
ed letters patent
for any inven-
tion may enter
a disclaimer of
any part of his
specification, or
a memorandum
of any altera-
tion therein,
which, when
filed, to be
deemed part of
such specifica-
tion.

Caveat may be
entered as here-
tofore.

Disclaimer not
to affect actions
pending at the
time.

Attorney gene-
ral may require
the party to ad-

No. III.
5 & 6 W. 4,
c. 83.

advertise his disclaimer.

Mode of proceeding where patentee is proved not to be the real inventor, though he believed himself to be so.

If in any action or suit a verdict or decree shall pass for the patentee, the judge may grant a certificate, which being given in evidence in any other suit shall entitle the patentee, upon a verdict in his favour, to receive treble costs.

Mode of proceeding in case of application for the prolongation of the term of a patent.

attorney general or solicitor general or lord advocate, before granting such fiat, to require the party applying for the same to advertise his disclaimer or alteration in such manner as to such attorney general or solicitor general or lord advocate shall seem right, and shall, if he so require such advertisement, certify in his fiat that the same has been duly made.

II. That if in any suit or action it shall be proved or specially found by the verdict of a jury that any person who shall have obtained letters patent for any invention or supposed invention was not the first inventor thereof, or of some part thereof, by reason of some other person or persons having invented or used the same, or some part thereof, before the date of such letters patent, or of such patentee or his assigns shall discover that some other person had, unknown to such patentee, invented or used the same, or some part thereof, before the date of such letters patent, it shall and may be lawful for such patentee or his assigns to petition his Majesty in council to confirm the said letters patent or to grant new letters patent, the matter of which petition shall be heard before the judicial committee of the privy council; and such committee, upon examining the said matter, and being satisfied that such patentee believed himself to be the first and original inventor, and being satisfied that such invention or part thereof had not been publicly and generally used before the date of such first letters patent, may report to his Majesty their opinion that the prayer of such petition ought to be complied with, whereupon his Majesty may, if he think fit, grant such prayer; and the said letters patent shall be available in law and equity to give to such petitioner the sole right of using, making, and vending such invention as against all persons whatsoever, any law, usage, or custom to the contrary thereof notwithstanding: Provided, That any person opposing such petition shall be entitled to be heard before the said judicial committee: Provided also, That any person, party to any former suit or action touching such first letters patent, shall be entitled to have notice of such petition before presenting the same.

III. That if any action at law or any suit in equity for an account shall be brought in respect of any alleged infringement of such letters patent heretofore or hereafter granted, or any scire facias to repeal such letters patent, and if a verdict shall pass for the patentee or his assigns, or if a final decree or decretal order shall be made for him or them, upon the merits of the suit, it shall be lawful for the judge before whom such action shall be tried to certify on the record, or the judge who shall make such decree or order to give a certificate under his hand, that the validity of the patent came in question before him, which record or certificate being given in evidence in any other suit or action whatever touching such patent, if a verdict shall pass, or decree or decretal order be made, in favour of such patentee or his assigns, he or they shall receive treble costs in such suit or action, to be taxed at three times the taxed costs, unless the judge making such second or other decree or order, or trying such second or other action, shall certify that he ought not to have such treble costs.

IV. That if any person who now hath or shall hereafter obtain any letters patent as aforesaid shall advertise in the *London Gazette* three times, and in three London papers, and three times in some country paper published in the town where or near to which he carried on any manufacture of any thing made according to his specification, or near to or in which he resides in case he carried on no such manufacture, or published in the county where he carries on such manufacture or where he lives in case there shall not be any paper published in such town, that he intends to apply to his Majesty in council for a prolongation of his term of sole using and vending his invention, and shall petition his Majesty in council to that effect, it shall be lawful for any person to enter a caveat at the council office; and if his Majesty shall refer the consideration of such petition to the judicial committee of the privy council, and notice shall first be by him given to any person or persons who

shall have entered such caveats, the petitioner shall be heard by his counsel and witnesses to prove his case, and the persons entering caveats shall likewise be heard by their counsel and witnesses; whereupon, and upon hearing and inquiring of the whole matter, the judicial committee may report to his Majesty that a further extension of the term in the said letters patent should be granted, not exceeding seven years; and his Majesty is hereby authorized and empowered, if he shall think fit, to grant new letters patent for the said invention for a term not exceeding seven years after the expiration of the first term, any law, custom, or usage to the contrary in anywise notwithstanding: Provided that no such extension shall be granted if the application by petition shall not be made and prosecuted with effect before the expiration of the term originally granted in such letters patent.

No. III.
5 & 6 W. 4,
c. 83.

V. That in any action brought against any person for infringing any letters patent the defendant on pleading thereto shall give to the plaintiff, and in any scire facias to repeal such letters patent the plaintiff shall file with his declaration, a notice of any objections on which he means to rely at the trial of such action, and no objection shall be allowed to be made in behalf of such defendant or plaintiff respectively at such trial unless he prove the objections stated in such notice: Provided always, That it shall and may be lawful for any judge at chambers, on summons served by such defendant or plaintiff on such plaintiff or defendant respectively to show cause why he should not be allowed to offer other objections whereof notice shall not have been given as aforesaid, to give leave to offer such objections, on such terms as to such judge shall seem fit.

In case of action, &c. notice of objections to be given.

VI. That in any action brought for infringing the right granted by any letters patent, in taxing the costs thereof regard shall be had to the part of such case which has been proved at the trial, which shall be certified by the judge before whom the same shall be had, and the costs of each part of the case shall be given according as either party has succeeded or failed therein, regard being had to the notice of objections, as well as the counts in the declaration, and without regard to the general result of the trial.

As to costs in actions for infringing letters patent.

VII. That if any person shall write, paint, or print, or mould, cast, or carve, or engrave or stamp, upon any thing made, used, or sold by him, for the sole making or selling of which he hath not or shall not have obtained letters patent, the name or any imitation of the name of any other person who hath or shall have obtained letters patent for the sole making and vending of such thing, without leave in writing of such patentee or his assigns, or if any person shall upon such thing, not having been purchased from the patentee or some person who purchased it from or under such patentee, or not having had the licence or consent in writing of such patentee or his assigns, write, paint, print, mould, cast, carve, engrave, stamp, or otherwise mark the word "Patent," the words "Letters Patent," or the words "By the King's Patent," or any words of the like kind, meaning, or import, with a view of imitating or counterfeiting the stamp, mark, or other device of the patentee, or shall in any other manner imitate or counterfeit the stamp or mark or other device of the patentee, he shall for every such offence be liable to a penalty of fifty pounds, to be recovered by action of debt, bill, plaint, process, or information in any of his Majesty's courts of record at Westminster or in Ireland, or in the court of session in Scotland, one half to his Majesty, his heirs and successors, and the other to any person who shall sue for the same: Provided always, That nothing herein contained shall be construed to extend to subject any person to any penalty in respect of stamping or in any way marking the word "Patent" upon any thing made, for the sole making or vending of which a patent before obtained shall have expired.

Penalty for using, unauthorised, the name of a patentee, &c.

PART III.

CLASS II.

TRADE, NAVIGATION, SHIPOWNERS, MARINERS, AND FISHERIES.

[No. I.] 11 G. IV. & 1 W. IV. c. 45.—An Act to subject to Duties of Customs Goods the property of the Crown, in case of Sale after Importation. [16th July 1830.]

Goods, &c. the property of the crown sold after importation charged with duty.

WHEREAS goods, wares, and merchandize, the property of the crown, are not by law subject to the payment of any duties of customs on importation into any part of his Majesty's dominions: And whereas it is expedient that such goods, wares, and merchandize, in the case of the sale thereof after importation, should be subject to the payment of such duties; be it therefore enacted, &c. That from and after the passing of this act all goods, wares, and merchandize, the property of the crown, shall, in case of the sale thereof after importation into this realm, be liable to and shall be charged with such and the same duties of customs as may be by law payable or charged on the like goods, wares, and merchandize, not being the property of the crown.

[No. II.] 11 G. IV. & 1 W. IV. c. 54.—An Act to revive, continue, and amend several Acts relating to the Fisheries. [16th July 1830.]

48 G. 3, c. 110. WHEREAS by an act passed in the forty-eighth year of the reign of his late Majesty king George the third, intituled *An Act for the further Encouragement and better Regulation of the British White Herring Fishery, until the First Day of June, One thousand eight hundred and thirteen, and from thence to the End of the then next Session of Parliament*; and by another act passed in the fifty-fifth year of the reign of his said late Majesty, intituled *An Act to continue and amend several Acts relating to the British White Herring Fishery*; and by another act passed in the first and second year of the reign of his late Majesty king George the fourth, intituled *An Act to repeal certain Bounties granted for the Encouragement of the Deep Sea British White Herring Fishery, and to make further Regulations relating to the said Fishery*, certain regulations were made respecting the British white herring fisheries; and by the said acts various bounties were granted for the encouragement of the said fisheries: And whereas by the said act passed in the first and second year of the reign of his said late Majesty, and by an act passed in the fifth year of the reign of his late Majesty king George the fourth, intituled *An Act to amend the several Acts for the Encouragement and Improvement of the British and Irish Fisheries*; and by another act passed in the seventh year of the reign of his late Majesty king George the fourth, intituled *An Act to amend an Act of the Fifth Year of His present Majesty, for amending the several Acts for the Encouragement and Improvement of the British and Irish Fisheries*, the said bounties, or such of them as were then existing, have been repealed, such repeal having

55 G. 3, c. 94.

1 & 2 G. 4, c. 79.

5 G. 4, c. 64.

7 G. 4, c. 34.

taken effect upon and from the fifth day of April, one thousand eight hundred and thirty: And whereas doubts may arise whether the repeal of the bounties aforesaid hath not rendered ineffectual certain of the provisions and regulations of the before-mentioned acts of the forty-eighth and fifty-fifth years of the reign of his said late Majesty king George the third, and of the first and second years of the reign of his late Majesty king George the fourth, relative to the placing a mark or character on barrels containing herrings properly cured, and it is expedient to remove such doubts; be it therefore enacted and declared by, &c., That nothing in the said acts passed in the fifth and seventh years of the reign of his late Majesty king George the fourth hath repealed or rendered ineffectual so much of the said acts passed in the forty-eighth and fifty-fifth years of the reign of his late Majesty king George the third, and of the first and second year of the reign of his late Majesty king George the fourth, as relates to the placing a mark or character on barrels or half barrels containing herrings properly cured, save only so far as respects the payment of any bounties therein mentioned; and that, save and except so far as respects the said bounties, the said acts passed in the forty-eighth and fifty-fifth years of the reign of his said late Majesty king George the third, and in the first and second years of the reign of his late Majesty king George the fourth, with reference to the placing a mark or character on barrels containing herrings properly cured, and every other provision and regulation of the said acts which were in force on the said fifth day of April, one thousand eight hundred and thirty, are and is shall be in full force, virtue, and effect, as though the said acts so passed in the fifth and seventh years of the reign of his late Majesty king George the fourth had not been made.

II. That if any person or persons shall ship or put on board any ship, vessel, or boat about to be employed in the said fisheries any old barrels or any old half barrels theretofore employed in the said fisheries which at the time of such shipment shall bear any official brand theretofore affixed thereupon under and in pursuance of the said acts or any of them, or of this present act, or shall pack any herrings or other fish in any such old barrels or half barrels, all such old barrels or any old half barrels, and the herrings or other fish shall be forfeited.

III. And whereas by the said acts passed in the forty-eighth and fifty-fifth years of the reign of his late Majesty king George the third various oaths were required to be taken for the protection of his Majesty's revenue, and it is no longer necessary that, with a view to that object, such oaths should continue to be administered; be it therefore enacted, That all persons who, under and by virtue of the said recited acts of the forty-eighth and fifty-fifth years of the reign of his late Majesty king George the third, were required to make any such declaration or statement on oath, shall henceforth be admitted to make such declaration or statement on their, his, or her affirmation, and without oath; and if any person shall wilfully and corruptly make any such declaration or statement falsely, every such person shall incur and become liable to a fine of not less than ten pounds nor more than twenty pounds.

IV. And whereas by an act passed in the first year of the reign of his late Majesty king George the fourth, intituled *An Act for the further Encouragement and Improvement of the British Fisheries*, certain bounties were granted for the encouragement of the British cod and ling fisheries, which bounties, by virtue of the said recited acts passed in the fifth and in the seventh years of the reign of his late Majesty, have ceased and determined: And whereas by the said act passed in the first year of the reign of his late Majesty, certain provisions were made, empowering the commissioners of the herring fishery to make certain regulations respecting the said cod and ling fisheries: And whereas by an act passed in the fifth year of the reign of his late Majesty king George the fourth, intituled *An Act to amend the several Acts for the Encouragement and Im-*

No. II.
11 G. 4, &
1 W. 4, c. 54.

Nothing in the acts 6 G. 4, c. 64, & 7 G. 4, c. 34, has repealed the powers of the recited acts of 48 and 55 G. 3, and 1 & 2 G. 4, so far as they relate to marking or branding barrels of herrings.

Old barrels employed in the fisheries with an old official brand to be forfeited, with their contents.

The declaration required to be made on oath by recited acts of 48 and 55 G. 3, may be made on affirmation.

Penalty for false declaration.

The powers of regulating the trade of the cod and ling fisheries vested in the commissioners by 1 G. 4, c. 103, revived, except so far as respects bounties.

No. II.
11 G. 4, &
1 W. 4, c. 54.

provement of the British and Irish Fisheries, the said act of the first year of his said late Majesty was repealed; and it is expedient that the powers vested as aforesaid in the said commissioners (save so far only as respects the payment of the said bounties) should be revived, and be again vested in the said commissioners; be it therefore enacted, That so much of the said act passed in the first year of the reign of his late Majesty king George the fourth as authorized the said commissioners to make such regulations as aforesaid shall be and the same is hereby revived, and shall be continued in force, save only so far as respects the payment of the said bounties; any thing in the said act of the fifth year of his said Majesty's reign to the contrary notwithstanding.

Recovery of
forfeitures un-
der this act.

V. That all penalties and forfeitures hereby imposed shall be sued for, recovered, and applied by such and the same persons, in such and the same manner, and to such and the same purposes, as any penalties and forfeitures incurred under the said acts of the forty-eighth and fifty-fifth years of the reign of his said late Majesty king George the third may be sued for, recovered, mitigated, and applied.

The powers
granted to the
commissioners
of the Irish
fisheries by
59 G. 3, c. 109,
shall be vested
in the directors
of inland navi-
gation.

VI. And whereas by an act passed in the fifty-ninth year of the reign of his late Majesty king George the third, intituled *An Act for the further Encouragement and Improvement of the Irish Fisheries*, the lord lieutenant or other chief governor or governors of Ireland was empowered to nominate and appoint persons to be commissioners specially for overseeing, directing, and improving the fisheries of Ireland, to be called commissioners of the Irish fisheries, for the purpose of executing the provisions of the said act for the period in the said act mentioned; and by an act passed in the seventh year of the reign of his late Majesty king George the fourth all the powers and authorities given by the said act of the fifty-ninth year of his said late Majesty's reign were continued in force until the fifth day of April one thousand eight hundred and thirty: And whereas for the purposes herein-after mentioned it is expedient that all the powers of the said commissioners of the Irish fisheries should be transferred to the directors of all works relating to inland navigation in Ireland, for the time being, appointed under and by virtue of an act of the parliament of Ireland, passed in the fortieth year of the reign of his said late Majesty king George the third, for promoting inland navigation in Ireland; be it therefore enacted, That from and after the passing of this act all and every right, title, and interest of the said commissioners of the Irish fisheries, and all powers and authorities vested in them in or by the said recited act of the fifty-ninth year of his said late Majesty, or in or by any other act or acts in force immediately before the said fifth day of April one thousand eight hundred and thirty, shall be transferred and conveyed to and the same are hereby vested in and shall be exercised by the directors of all works relating to inland navigation in Ireland, for the time being; and it shall be lawful for the lord lieutenant or other chief governor or governors of Ireland, for the time being, to nominate and appoint any person or persons to be director or directors of all works relating to inland navigation, for the purposes of this act, in addition to the number of directors of the said works at the time of the passing of this act: Provided always, That any such director or directors so to be nominated and appointed shall not be entitled to any salary, allowance, or emolument whatsoever as such director or directors.

Lord lieutenant
may appoint
additional di-
rectors;

who shall not
be entitled to
any salary.

Lord lieutenant
may employ
persons for
completing
piers begun, or
for receiving
repayment of
loans, &c.

VII. That it shall be lawful for the lord lieutenant or other chief governor or governors of Ireland, for the time being, to appoint and employ any persons heretofore appointed under the said recited act of the fifty-ninth year of his late Majesty, or any other act relating to the Irish fisheries, or to appoint and employ any other persons, for the completing the erection of any pier which shall have been begun, or for the repayment of any loans which shall have been advanced for the encouragement of the Irish fisheries, at any time previous to the fifth day of April one thousand eight hundred and thirty, under any act or acts in force immediately before that day, and in general for the manag-

ing and concluding of all concerns, matters, and things which shall have been commenced under the authority of the said commissioners of the Irish fisheries, and which shall not have been brought to a conclusion before the passing of this act; and every such person so to be appointed and employed shall obey such instructions and orders and directions as he shall from time to time receive from the said directors of inland navigation, or any two of them, of whom one shall be a person appointed by the lord lieutenant or other chief governor or governors of Ireland, for the purposes of this act, signified under their hands, or under the hand of their secretary or other proper officer for that purpose.

No. II.
11 G. 4, &
1 W. 4, c. 54.

VIII. And whereas by the said recited act passed in the fifty-ninth year of the reign of his said late Majesty the lord lieutenant or other chief governor or governors of Ireland was authorized to direct the payment of any sum or sums of money, not exceeding eight thousand pounds in any one year, for the encouragement of the coast fisheries of Ireland, and also salaries and allowances to the officers and persons employed in and about the execution of the said act; be it further enacted, That it shall and may be lawful for the lord lieutenant or other chief governor or governors of Ireland, from time to time during the period of five years from and after the fifth day of April one thousand eight hundred and thirty, from time to time to direct any sum or sums of money, not exceeding the sum of four thousand five hundred pounds in the first year, and not exceeding the sum of three thousand five hundred pounds in the second year, and not exceeding the sum of two thousand five hundred pounds in the third year, and not exceeding the sum of one thousand five hundred pounds in the fourth year, and not exceeding the sum of one thousand pounds in the fifth year of the said period of five years, to be issued and paid to the directors of inland navigation out of the revenue of the consolidated fund arising in Ireland, to be applied in completing any piers which shall have been begun before the said fifth day of April one thousand eight hundred and thirty, and in paying such officers and persons as shall be necessarily employed in and about or relating to the completion of such piers, or in relation to the repayment of any loans made and lent before the said fifth day of April one thousand eight hundred and thirty, or in or about any matters relating to the said fisheries, and requisite to be done for fulfilling the purposes of this act.

Lord lieutenant may, for five years, order sums to be issued out of consolidated fund for the purposes of this act.

IX. That the directors of inland navigation, or any two of them, of whom one shall be a person appointed by the lord lieutenant or other chief governor or governors of Ireland, for the purposes of this act, shall and may have, use, and exercise all such powers and authorities, and shall and may do all such matters and things, in and about the execution of this act, and for the carrying this act into execution, as the commissioners of the Irish fisheries might or could have had, used, exercised, or done under any act or acts in force relating to the Irish fisheries before the said fifth day of April one thousand eight hundred and thirty; and that all such acts shall remain and continue in force for the purposes of this act, and for the payment of all bounties which may have become payable at any time before the said fifth day of April one thousand eight hundred and thirty, and for the performance of all matters and things relating to such bounties: Provided always, That nothing in this act contained shall extend or be construed to extend to revive or continue the bounties by the said acts granted, or any of them.

Directors of inland navigation shall have all the powers of commissioners of the fisheries.

Not to revive the bounties.

[No. III.] 11 G. IV. and 1 W. IV. c. 72.—An Act to allow, before the Fifth day of July one thousand eight hundred and thirty-one, Sugar to be delivered out of Warehouse to be refined. (1) [23rd July 1830.]

9 G. 4, c. 93. WHEREAS an act was passed in the ninth year of the reign of his late Majesty king George the fourth, intituled *An Act to allow Sugar to be delivered out of Warehouse to be refined*: And whereas another act was passed in the tenth year of the reign of his said late Majesty, 10 G. 4, c. 39. intituled *An Act to continue until the fifth day of July one thousand eight hundred and thirty, the Provisions of an Act to allow Sugar to be delivered out of Warehouse to be refined*: And whereas it is expedient to continue and amend the said first-recited act: Be it therefore enacted, &c., That upon the application of any person actually carrying on the business of a sugar refiner in the ports of London, Liverpool, Bristol, or Glasgow, and having two pans at least at work upon the same premises, it shall be lawful for the officers of the customs at those ports respectively, at any time before the fifth day of July one thousand eight hundred and thirty-one, to deliver to such person any quantity of foreign sugar, or of sugar the produce of the East Indies, not exceeding the quantity specified in the said first-recited act, to be by him refined, under the regulations, and upon the conditions, and in the manner in the said first-recited act directed, upon payment of the following duties, in lieu of the duties specified in the said act; (that is to say)—

Foreign sugar may be delivered to be refined until July 1831, on payment of the duties herein mentioned.

DUTIES ON SUGAR DELIVERED TO BE REFINED.

	£	s.	d.
Brown or Muscovado or clayed sugar, not being of greater value than the average price of sugar of the British plantations in America, the cwt	1	4	0
— and further, in respect of every shilling by which such sugar shall be of greater value than such average price, the cwt.	0	0	6

And all and every the clauses, powers, and provisions, pains, penalties, and forfeitures, matters and things, contained in the said first-recited act, shall extend to this act, in as full and ample a manner, to all intents, constructions, and purposes, as if the same had been repeated and re-enacted in the body of this act, and had made part thereof.

[No. IV.] 1 W. IV. c. 24.—An Act to amend an Act of the Sixth year of his late Majesty to regulate the Trade of the British Possessions abroad. [16th July 1830.]

[No. V.] 2 & 3 W. IV. c. 79.—An Act to continue, until the Thirty-first day of December One thousand eight hundred and thirty-four, an Act of the Fifth year of his late Majesty relating to the Fisheries in Newfoundland. (5 G. IV. c. 51.) [1st August 1832.]

(1) See also the 3 & 4 W. 4, c. 61, *post*.

[No. VI.] 3 & 4 W. IV. c. 28.—An Act to repeal an Act of the Thirteenth year of his Majesty King George the First, for the better Regulation of the Woollen Trade.

[24th July 1833.]

WHEREAS an act was passed in the thirteenth year of the reign of his Majesty king George the first, intituled *An Act for the better Regulation of the Woollen Manufacture, and for preventing Disputes among the Persons concerned therein; and for limiting a Time for prosecuting for the Forfeiture appointed by an Act of the Twelfth Year of his Majesty's Reign, in case of Payment of the Workman's Wages in any other Manner than in Money*: And whereas the said act is at this day not only unnecessary, but if enforced might be extremely injurious; and it is therefore expedient to repeal the same: Be it therefore enacted, &c., That the said recited act be and the same is hereby repealed.

13 G. 1. c. 23.

Recited act repealed.

[No. VII.] 3 & 4 W. IV. c. 9.—An Act for incorporating the Members of a Society commonly called "The Seaman's Hospital Society" and their Successors, as therein is mentioned and provided, and for the better enabling and empowering them to carry on the charitable and useful Designs of the same Society.

[No. VIII.] 3 & 4 W. IV. c. 50.—An Act to repeal the several Laws relating to the Customs.

[28th August 1833.]

[No. IX.] 3 & 4 W. IV. c. 51.—An Act for the management of the Customs.

[28th August 1833.]

[No. X.] 3 & 4 W. IV. c. 52.—An Act for the general Regulation of Customs.

[28th August 1833.]

[No. XI.] 3 & 4 W. IV. c. 53.—An Act for the Prevention of Smuggling.

[28th August 1833.]

[No. XII.] 3 & 4 W. IV. c. 54.—An Act for the Encouragement of British Shipping and Navigation.

[28th August 1833.]

WHEREAS an act was passed in the sixth year of the reign of his late Majesty king George the fourth, intituled *An Act for the Encouragement of British Shipping and Navigation*, whereby the laws for the encouragement of British shipping and navigation were consolidated and amended: And whereas since the passing of the said act divers acts for the further amendment of the law have been found necessary, and it will be of advantage to the trade and commerce of the country that the said acts should be consolidated into one act: Be it

6 G. 4, c. 109.

Commencement of act.

No. XII.
3 & 4 W. 4,
c. 54.

Ships in which
only enumerated
goods of
Europe may be
imported.

Places from
which only
goods of Asia,
Africa, or
America may
be imported.

Ships in which
only goods of
Asia, Africa, or
America may
be imported.

Manufacture
deemed pro-
duce.

From Guern-
sey, &c.

Exports to
Asia, &c. and
to Guernsey,
&c.

Coastwise.

Between
Guernsey, Jer-
sey, &c.

Between Bri-
tish possessions
in Asia, &c.

therefore enacted, &c., That this act shall commence upon the first day of September one thousand eight hundred and thirty-three, except where any other commencement is herein particularly directed.

II. That the several sorts of goods herein-after enumerated, being the produce of Europe; (that is to say) masts, timber, boards, tar, tallow, hemp, flax, currants, raisins, figs, prunes, olive oil, corn or grain, wine, brandy, tobacco, wool, shumac, madders, madder roots, barilla, brimstone, bark of oak, cork, oranges, lemons, linseed, rape seed, and clover seed, shall not be imported into the united kingdom to be used therein, except in British ships, or in ships of the country of which the goods are the produce, or in ships of the country from which the goods are imported.

III. That goods, the produce of Asia, Africa, or America, shall not be imported from Europe into the united kingdom, to be used therein, except the goods herein-after mentioned; (that is to say)—

Goods, the produce of the dominions of the emperor of Morocco, which may be imported from places in Europe within the straits of Gibraltar:

Goods, the produce of Asia or Africa, which (having been brought into places in Europe, within the straits of Gibraltar, from or through places in Asia or Africa within those straits, and not by way of the Atlantic ocean) may be imported from places in Europe within the straits of Gibraltar:

Goods, the produce of places within the limits of the East India company's charter, which (having been imported from those places into Gibraltar or Malta in British ships) may be imported from Gibraltar or Malta:

Goods taken by way of reprisal by British ships:

Bullion, diamonds, pearls, rubies, emeralds, and other jewels or precious stones.

IV. That goods, the produce of Asia, Africa, or America, shall not be imported into the united kingdom, to be used therein, in foreign ships, unless they be the ships of country in Asia, Africa, or America, of which the goods are the produce, and from which they are imported, except the goods herein-after mentioned; (that is to say)—

Goods, the produce of the dominions of the grand seignor, in Asia or Africa, which may be imported from his dominions in Europe, in ships of his dominions:

Raw silk and mohair yarn, the produce of Asia, which may be imported from the dominions of the grand seignor in the Levant seas, in ships of his dominions:

Bullion.

V. Provided always, That all manufactured goods shall be deemed to be the produce of the country of which they are the manufacture.

VI. That no goods shall be imported into the united kingdom from the islands of Guernsey, Jersey, Alderney, Sark, or Man, except in British ships.

VII. That no goods shall be exported from the united kingdom to any British possession in Asia, Africa, or America, nor to the islands of Guernsey, Jersey, Alderney, Sark, or Man, except in British ships.

VIII. That no goods shall be carried coastwise from one part of the united kingdom to another, except in British ships.

IX. That no goods shall be carried from any of the islands of Guernsey, Jersey, Alderney, Sark, or Man, to any other of such islands, nor from one part of any of such islands to another part of the same island, except in British ships.

X. That no goods shall be carried from any British possession in Asia, Africa, or America, to any other of such possessions, nor from one part of any of such possessions to another part of the same, except in British ships.

XI. That no goods shall be imported into any British possession in Asia, Africa, or America, in any foreign ships, unless they be ships of the country of which the goods are the produce, and from which the goods are imported.

Imports into
Asia, &c.

XII. That no ship shall be admitted to be a British ship unless duly registered and navigated as such; and that every British registered ship (so long as the registry of such ship shall be in force, or the certificate of such registry retained for the use of such ship) shall be navigated during the whole of every voyage (whether with a cargo or in ballast), in every part of the world by a master who is a British subject, and by a crew, whereof three-fourths at least are British seamen; and if such ship be employed in a coasting voyage from one part of the united kingdom to another, or in a voyage between the united kingdom and the islands of Guernsey, Jersey, Alderney, Sark, or Man, or from one of the said islands to another of them, or from one part of either of them to another of the same, or be employed in fishing on the coasts of the united kingdom or of any of the said islands, then the whole of the crew shall be British seamen.

British possessions in
No ship British, unless registered, and navigated as such.

XIII. Provided always, That all British-built boats or vessels under fifteen tons burthen, wholly owned and navigated by British subjects, although not registered as British ships, shall be admitted to be British vessels, in all navigation in the rivers and upon the coasts of the united kingdom, or of the British possessions abroad, and not proceeding over sea, except within the limits of the respective colonial governments within which the managing owners of such vessels respectively reside; and that all British-built boats or vessels wholly owned and navigated by British subjects, not exceeding the burthen of thirty tons, and not having a whole or a fixed deck, and being employed solely in fishing on the banks and shores of Newfoundland, and of the parts adjacent, or on the banks and shores of the provinces of Canada, Nova Scotia, or New Brunswick, adjacent to the gulf of Saint Lawrence, or on the north of cape Canso, or of the islands within the same, or in trading coastwise within the said limits, shall be admitted to be British boats or vessels, although not registered, so long as such boats or vessels shall be solely so employed.

But vessels under fifteen tons burthen admitted in navigation upon rivers, &c. although not registered.

Vessels under 30 tons for Newfoundland fishery, &c. need not be registered.

XIV. Provided also, That all ships built in the British settlements at Honduras, and owned and navigated as British ships, shall be entitled to the privileges of British registered ships in all direct trade between the united kingdom or the British possessions in America and the said settlements; provided the master shall produce a certificate under the hand of the superintendent of those settlements, that satisfactory proof has been made before him that such ship (describing the same) was built in the said settlements, and is wholly owned by British subjects; provided also, that the time of the clearance of such ship from the said settlements for every voyage shall be endorsed upon such certificate by such superintendent.

Honduras ships to be as British, in trade with united kingdom and colonies in America.

XV. That no ship shall be admitted to be a ship of any particular country, unless she be of the build of such country; or have been made prize of war to such country; or have been forfeited to such country under any law of the same, made for the prevention of the slave trade, and condemned as such prize or forfeiture by a competent court of such country; or be British built (not having been a prize of war from British subjects to any other foreign country); nor unless she be navigated by a master who is a subject of such foreign country, and by a crew of whom three fourths at least are subjects of such country; nor unless she be wholly owned by subjects of such country usually residing therein, or under the dominion thereof: Provided always, That the country of every ship shall be deemed to include all places which are under the same dominion as the place to which such ship belongs.

Ship of any foreign country to be of the build of, or prize to such country; or British-built, and owned and navigated by subjects of the country.

XVI. That no person shall be qualified to be a master of a British ship, or to be a British seaman within the meaning of this act, except

Master and seamen not British.

No. XII.
3 & 4 W. 4,
c. 54.

tish, unless natural born or naturalized, or denizens, or subjects by conquest or cession, or having served in his Majesty's ships of war.

Natives of India not to be British seamen.

One British seaman to twenty tons sufficient to constitute a proper crew.

Foreigners having served two years on board his Majesty's ship during war.

British ship not to depart British port unless duly navigated, &c.

If excess of foreign seamen, penalty 10*l.* for each; except British seamen cannot be procured in foreign ports, or in India; or proportion destroyed unavoidably; and certificate produced or proof made.

Proportion of seamen may be altered by proclamation.

Goods prohibited only by navigation law may be imported for exportation.

the natural-born subjects of his Majesty, or persons naturalized by any act of parliament, or made denizens by letters of denization; or except persons who have become British subjects by virtue of conquest or cession of some newly acquired country, and who shall have taken the oath of allegiance to his Majesty, or the oath of fidelity required by the treaty or capitulation by which such newly acquired country came into his Majesty's possessions; or persons who shall have served on board any of his Majesty's ships of war in time of war for the space of three years: Provided always, That the natives of places within the limits of of the East India company's charter, although under British dominion, shall not, upon the ground of being such natives, be deemed to be British seamen: Provided always, That every ship (except ships required to be wholly navigated by British seamen) which shall be navigated by one British seaman, if a British ship, or one seaman of the country of such ship, if a foreign ship, for every twenty tons of the burthen of such ship, shall be deemed to be duly navigated, although the number of other seamen shall exceed one fourth of the whole crew: Provided always, That nothing herein contained shall extend to repeal or alter the provisions of an act passed in the fourth year of the reign of his late Majesty king George the fourth, for consolidating and amending the laws then in force with respect to trade from and to places within the limits of the East India company's charter.

XVII. Provided always, That it shall be lawful for his Majesty, by his royal proclamation during war, to declare that foreigners, having served two years on board any of his Majesty's ships of war in time of such war, shall be British seamen within the meaning of this act.

XVIII. That no British registered ship shall be suffered to depart any port in the united kingdom, or any British possession in any part of the world (whether with a cargo or in ballast), unless duly navigated: Provided always, that any British ships, trading between places in America, may be navigated by British negroes; and that ships trading eastward of the Cape of Good Hope within the limits of the East India company's charter may be navigated by Lascars, or other natives of countries within those limits.

XIX. That if any British registered ship shall at any time have, as part of the crew in any part of the world, any foreign seaman not allowed by law, the master or owners of such ship shall for every such foreign seaman forfeit the sum of ten pounds: Provided always, That if a due proportion of British seamen cannot be procured in any foreign port, or in any place within the limits of the East India company's charter, for the navigation of any British ship; or if such proportion be destroyed during the voyage by any unavoidable circumstance, and the master of such ship shall produce a certificate of such facts under the hand of any British consul, or of two known British merchants, if there be no consul at the place where such facts can be ascertained, or from the British governor of any place within the limits of the East India company's charter; or, in the want of such certificate, shall make proof of the truth of such facts to the satisfaction of the collector and controller of the customs of any British port, or of any person authorized in any other part of the world to inquire into the navigation of such ship, the same shall be deemed to be duly navigated.

XX. That if his Majesty shall, at any time by his royal proclamation, declare that the proportion of British seamen necessary to the due navigation of British ships shall be less than the proportion required by this act, every British ship navigated with the proportion of British seamen required by such proclamation shall be deemed to be duly navigated, so long as such proclamation shall remain in force.

XXI. Provided always, That goods of any sort or the produce of any place, not otherwise prohibited than by the law of navigation hereinbefore contained, may be imported into the united kingdom from any place in a British ship, and from any place not being a British possession in a foreign ship of any country, and however navigated, to be

warehoused for exportation only, under the provisions of any law in force for the time being, made for the warehousing of goods without payment of duty upon the first entry thereof.

XXII. That if any goods be imported, exported, or carried coastwise, contrary to the law of navigation, all such goods shall be forfeited, and the master of such ship shall forfeit the sum of one hundred pounds.

XXIII. That all penalties and forfeitures incurred under this act shall be sued for, prosecuted, recovered, and disposed of, or shall be mitigated or restored, in like manner as any penalty or forfeiture can be sued for, prosecuted, recovered, and disposed of, or may be mitigated or restored, under an act passed in the present session of parliament for the prevention of smuggling.

No. XII.
3 & 4 W. 4,
c. 54.

Forfeitures
how incurred.

Recovery of
forfeitures.

[No. XIII.] 3 & 4 W. IV. c. 55.—An Act for the registering of British Vessels. (1) [28th August 1833.]

WHEREAS an act was passed in the sixth year of the reign of his late Majesty king George the fourth, intituled *An Act for the registering of British Vessels*, whereby the laws in relation to the registration of British vessels were consolidated and amended: And whereas since the passing of the said act divers acts for the further amendment of the law have been found necessary, and it will be of advantage to the trade and commerce of the country that the said acts should be consolidated into one act: Be it therefore enacted, &c., That this act shall commence upon the first day of September one thousand eight hundred and thirty-three, except where any other commencement is herein particularly directed.

Commence-
ment of act.

II. That no ship or vessel shall be entitled to any of the privileges or advantages of a British-registered ship unless the person or persons claiming property therein shall have caused the same to have been registered in virtue of the said act, or of an act passed in the fourth year of his said late Majesty's reign, intituled *An Act for the registering of British Vessels*, or until such person or persons shall have caused the same to be registered in manner herein-after mentioned, and shall have obtained a certificate of such registry from the person or persons authorized to make such registry and grant such certificate as herein-after directed; the form of which certificate shall be as follows; *videlicet*,

No vessel to
enjoy privileges
until registered.

4 G. 4, c. 41.

' THIS is to certify, That in pursuance of an act passed in the fourth year of the reign of king William the fourth, intituled *An Act* [here insert the title of this act, the names, occupation, and residence of the subscribing owners], having made and subscribed the declaration required by the said act, and having declared that [he or they] together with [names, occupations, and residence of non-subscribing owners] [is or are] sole owner or owners, in the proportions specified on the back hereof, of the ship or vessel called the [ship's name] of [place to which the vessel belongs], which is of the burthen of [number of tons], and whereof [master's name] is master, and that the said ship or vessel was [when and where built, or condemned as prize, referring to builder's certificate, judge's certificate, or certificate of last registry, then delivered up to be cancelled], and [name and employment of surveying officer] having certified to us that the said ship or vessel has [number] decks and [number] masts, that her length from the fore part of the main stem to the after part of the stern post aloft is [number of feet and inches], her breadth at the broadest part [stating whether that be above or below the main wales] is [number of feet and inches], her [height between decks if more than one deck, or depth in the hold if only one deck] is [number of feet and inches], that she is [how rigged] rigged with a [standing or running]

Form of certifi-
cate of registry.

No. XLII.
3 & 4 W. 4,
c. 55.

' bowsprit, is [description of stern] sterned, [carvel or clincher] built, has
' [whether any or no] gallery, and [kind of head, if any] head; and the
' said subscribing owners having consented and agreed to the above
' description, and having caused sufficient security to be given as is re-
' quired by the said act, the said ship or vessel called the [name] has
' been duly registered at the port of [name of port]. Certified under our
' hands at the custom house in the said port of [name of port] this [date]
' day of [name of month] in the year [words at length].

' [Signed]
' [Signed]

Collector.
Controller.'

And on the back of such certificate of registry there shall be an account of the parts or shares held by each of the owners mentioned and described in such certificate, in the form and manner following :

' Names of the several owners within mentioned.	Number of sixty-fourth shares held by each owner.
' [Name] - - - - - ' [Name] - - - - - ' [Name] - - - - - ' [Name] - - - - -	Thirty-two. Sixteen. Eight. Eight]
' [Signed] ' [Signed]	Collector. Controller.'

Persons au-
thorized to
make registry
and grant cer-
tificates.

III. That the persons authorized and required to make such registry and grant such certificates shall be the several persons herein-after mentioned and described; (that is to say,)

In united king-
dom and isle of
Man.

The collector and controller of his Majesty's customs in any port in the united kingdom of Great Britain and Ireland, and in the Isle of Man respectively, in respect of ships or vessels to be there registered :

In Guernsey,
&c.

The principal officers of his Majesty's customs in the island of Guernsey or Jersey, together with the governor, lieutenant governor, or commander in chief of those islands respectively, in respect of ships or vessels to be there registered :

In colonies in
Asia, Africa,
and America :

The collector and controller of his Majesty's customs of any port in the British possessions in Asia, Africa, and America, or the collector of any such port at which no appointment of a controller has been made, in respect of ships or vessels to be there registered :

In territories of
East India
company :

The collector of duties at any port in the territories under the government of the East India Company, within the limits of the charter of the said company, or any other person of the rank in the said company's service of senior merchant, or of six years standing in the said service, being respectively appointed to act in the execution of this act by any of the governments of the said company, in respect of ships or vessels to be there registered :

In other places
within limits of
the charter :

The collector of duties at any British possession within the said limits, and not under the government of the said company, and at which a custom house is not established, together with the governor, lieutenant governor, or commander in chief of such possession, in respect of ships or vessels to be there registered :

In Malta, Gi-
braltar, &c.

The governor, lieutenant governor, or commander in chief of Malta, Gibraltar, Heligoland, and Cape of Good Hope respectively, in respect of ships or vessels to be there registered :

Limitation as to
vessels regis-
tered at Malta,
Gibraltar, or
Heligoland.

Provided always, That no ship or vessel to be registered at Heligoland, except such as is wholly of the built of that place, and that ships or vessels, after having been registered at Malta, Gibraltar, or Heligoland, shall not be registered elsewhere; and that ships or vessels registered at Malta, Gibraltar, or Heligoland shall not be entitled to the privileges

and advantages of British ships in any trade between the said united kingdom and any of the British possessions in America: Provided also, That wherever in and by this act it is directed or provided that any act, matter, or thing shall and may be done or performed by, to, or with any collector and controller of his Majesty's customs, the same shall or may be done or performed by, to, or with the several persons respectively herein-before authorized and required to make registry, and to grant certificates of registry as aforesaid, and according as the same act, matter, or thing is to be done or performed at the said several and respective places, and within the jurisdiction of the said several persons respectively: Provided also, That wherever in and by this act it is directed or provided that any act, matter, or thing shall or may be done or performed by, to, or with the commissioners of his Majesty's customs, the same shall or may be done or performed by, to, or with the governor, lieutenant governor, or commander in chief of any place where any ship or vessel may be registered under the authority of this act, so far as such act, matter, or thing can be applicable to the registering of any ship or vessel at such place.

IV. That in case any ship or vessel not being duly registered, and not having obtained such certificate of registry as aforesaid, shall exercise any of the privileges of a British ship, the same shall be subject to forfeiture, and also all the guns, furniture, ammunition, tackle, and apparel to the same ship or vessel belonging, and shall and may be seized by any officer or officers of his Majesty's customs: Provided always, that nothing in this act shall extend or be construed to extend to affect the privileges of any ship or vessel which shall prior to the commencement of this act have been registered by virtue of an act passed in the sixth year of the reign of his late Majesty king George the fourth, intituled *An Act for the registering British Vessels*.

V. That no ship or vessel shall be registered, or having been registered shall be deemed to be duly registered, by virtue of this act, except such as are wholly of the built of the said united kingdom, or of the Isle of Man, or of the islands of Guernsey or Jersey, or of some of the colonies, plantations, islands, or territories in Asia, Africa, or America, or of Malta, Gibraltar, or Heligoland, which belong to his Majesty, his heirs or successors, at the time of the building of such ships or vessels, or such ships or vessels as shall have been condemned in any court of admiralty as prize of war, or such ships or vessels as shall have been condemned in any competent court as forfeited for the breach of the laws made for the prevention of the slave trade, and which shall wholly belong and continue wholly to belong to his Majesty's subjects duly entitled to be owners of ships or vessels registered by virtue of this act.

VI. That no Mediterranean pass shall be issued for the use of any ship, as being a ship belonging to Malta or Gibraltar, except such as be duly registered at those places respectively, or such as, not being entitled to be so registered, shall have wholly belonged, before the tenth day of October one thousand eight hundred and twenty-seven, and shall have continued wholly to belong, to persons actually residing at those places respectively, as inhabitants thereof, and entitled to be owners of British ships there registered, or who, not being so entitled, shall have so resided upwards of fifteen years prior to the said tenth day of October one thousand eight hundred and twenty-seven.

VII. That no ship or vessel shall continue to enjoy the privileges of a British ship after the same shall have been repaired in a foreign country, if such repairs shall exceed the sum of twenty shillings for every ton of the burthen of the said ship or vessel, unless such repairs shall have been necessary by reason of extraordinary damage sustained by such ship or vessel during her absence from his Majesty's dominions, to enable her to perform the voyage in which she shall have been engaged, and to return to some port or place in the said dominions; and whenever any ship or vessel which has been so repaired in a foreign country shall arrive at any port in his Majesty's dominions as a British

No. XIII.
3 & 4 W. 4,
c. 55.

Certain powers of collectors and controllers, by whom to be exercised in certain cases.

Powers of commissioners of customs in united kingdom given to governors, &c. abroad.

Ships exercising privileges before registry to be forfeited; but not to affect vessels registered under previous act.

What ships are entitled to be registered.

Mediterranean pass may be issued at Malta or Gibraltar for certain ships only.

Foreign repairs not to exceed 20s. per ton.

The master on arrival to report such repairs.

No. XIII.
3 & 4 W. 4,
c. 55.

Necessity of
such repairs to
be proved to
commissioners
of customs.

Ships declared
unseaworthy to
be deemed
ships lost or
broken up.

British ships
captured not to
be again en-
titled to regis-
try; but ships
condemned in
courts of admi-
ralty may be
registered.

Ships shall be
registered at the
port to which
they belong.

Commissioners
of customs may
permit registry
at other ports.

Book of regis-
ters to be kept,
and accounts to
be transmitted
to commis-
sioners.

Port to which

registered ship or vessel, the master or other person having the command or charge of the same shall, upon the first entry thereof, report to the collector and controller of his Majesty's customs at such port that such ship or vessel has been so repaired, under penalty of twenty shillings for every ton of the burthen of such ship or vessel, according to the admeasurement thereof; and if it shall be proved to the satisfaction of the commissioners of his Majesty's customs that such ship or vessel was seaworthy at the time when she last departed from any port or place in his Majesty's dominions, and that no greater quantity of such repairs have been done to the said vessel than was necessary as aforesaid, it shall be lawful for the said commissioners, upon a full consideration of all the circumstances, to direct the collector and controller of the port where such ship or vessel shall have arrived, or where she shall then be, to certify on the certificate of the registry of such ship or vessel that it has been proved to the satisfaction of the commissioners of his Majesty's customs that the privileges of the said ship or vessel have not been forfeited, notwithstanding the repairs which have been done to the same in a foreign country.

VIII. That if any ship or vessel registered under the authority of this or any other act shall be deemed or declared to be stranded or unseaworthy, and incapable of being recovered, or repaired to the advantage of the owners thereof, and shall for such reasons be sold by order or decree of any competent court for the benefit of the owners of such ship or vessel or other persons interested therein, the same shall be taken and deemed to be a ship or vessel lost or broken up to all intents and purposes within the meaning of this act, and shall never again be entitled to the privileges of a British-built ship for any purposes of trade or navigation.

IX. That no British ship or vessel which has been or shall hereafter be captured by and become prize to an enemy or sold to foreigners shall again be entitled to the privileges of a British ship: Provided always, That nothing contained in this act shall extend to prevent the registering of any ship or vessel whatever which shall afterwards be condemned in any court of admiralty as prize of war, or in any competent court, for breach of laws made for the prevention of the slave trade.

X. That no such registry shall hereafter be made, or certificate thereof granted, by any person or persons herein-before authorized to make such registry and grant such certificate, in any other port or place than the port or place to which such ship or vessel shall properly belong, except so far as relates to such ships or vessels as shall be condemned as prizes in any of the islands of Guernsey, Jersey, or Man, which ships or vessels shall be registered in manner herein-after directed; but that all and every registry and certificate made and granted in any port or place to which any such ship or vessel does not properly belong shall be utterly null and void to all intents and purposes, unless the officers aforesaid shall be specially authorized and empowered to make such registry and grant such certificate in any other port by an order in writing under the hands of the commissioners of his Majesty's customs, which order the said commissioners are hereby authorized and empowered to issue if they shall see fit; and at every port where registry shall be made in pursuance of this act a book shall be kept by the collector and controller, in which all the particulars contained in the form of the certificate of the registry herein-before directed to be used shall be duly entered; and every registry shall be numbered in progression, beginning such progressive numeration at the commencement of each and every year; and such collector and controller shall forthwith, or within one month at the farthest, transmit to the commissioners of his Majesty's customs a true and exact copy, together with the number of every certificate which shall be by them so granted.

XI. That every ship or vessel shall be deemed to belong to some port

at or near to which some or one of the owners, who shall make and subscribe the declaration required by this act before registry be made, shall reside; and whenever such owner or owners shall have transferred all his or their share or shares in such ship or vessel, the same shall be registered *de novo* before such ship or vessel shall sail or depart from the port to which she shall then belong, or from any other port which shall be in the same part of the united kingdom, or the same colony, plantation, island, or territory as the said port shall be in: Provided always, that if the owner or owners of such ship or vessel cannot in sufficient time comply with the requisites of this act, so that registry may be made before it shall be necessary for such ship or vessel to sail or depart upon another voyage, it shall be lawful for the collector and controller of the port where such ship or vessel may then be to certify upon the back of the existing certificate of registry of such ship or vessel, that the same is to remain in force for the voyage upon which the said ship or vessel is then about to sail or depart: Provided also, That if any ship or vessel shall be built in any of the colonies, plantations, islands, or territories in Asia, Africa, or America, to his Majesty belonging, for owners residing in the united kingdom, and the master of such ship or vessel, or the agent for the owner or owners thereof, shall have produced to the collector and controller of the port at or near to which such ship or vessel was built, the certificate of the builder required by this act, and shall have made and subscribed a declaration before such collector and controller of the names and descriptions of the principal owners of such ship or vessel, and that she is the identical ship or vessel mentioned in such certificate of the builder, and that no foreigner, to the best of his knowledge and belief, has any interest therein; the collector and controller of such port shall cause such ship or vessel to be surveyed and measured in like manner as is directed for the purpose of registering any ship or vessel, and shall give the master of such ship or vessel a certificate under their hands and seals, purporting to be under the authority of this act, and stating when and where and by whom such ship or vessel was built, the description, tonnage, and other particulars required on registry of any ship or vessel, and such certificate shall have all the force and virtue of a certificate of registry under this act, during the term of two years, unless such ship shall sooner arrive at some place in the united kingdom; and such collector and controller shall transmit a copy of such certificate to the commissioners of his Majesty's customs.

XII. That no person who has taken the oath of allegiance to any foreign state, except under the terms of some capitulation, unless he shall afterwards become a denizen or naturalized subject of the united kingdom by his Majesty's letters patent or by act of parliament, nor any person usually residing in any country not under the dominion of his Majesty, his heirs and successors, unless he be a member of some British factory, or agent for or partner in any house or copartnership actually carrying on trade in Great Britain or Ireland, shall be entitled to be the owner, in whole or in part, directly or indirectly, of any ship or vessel required and authorized to be registered by virtue of this act; save and except that it shall be lawful for any person who was a member of the company of merchants trading to the Levant seas at the time of its dissolution, and who was a resident at any of the factories of the said company, to continue to hold any share or shares in any British-registered ship of which at the time of such residence he was an owner or part owner, although such person shall continue to reside at any of the places where such factories had existed prior to the dissolution of the said company.

XIII. That no registry shall henceforth be made or certificate granted until the following declaration be made and subscribed, before the person or persons herein-before authorized to make such registry and grant such certificate respectively, by the owner of such ship or vessel if such ship or vessel is owned by or belongs to one person only, or in

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3 & 4 W. 4,
c. 55.

vessels shall be deemed to be long.

Change of subscribing owners to require registry *de novo*.

If registry *de novo* cannot be made, ship may go one voyage with permission indorsed on certificate of registry.

Ships built in foreign possessions, for owners resident in united kingdom, may have a certificate from the collector, &c. to trade for two years or until arrival in united kingdom.

Persons residing in foreign countries may not be owners, unless members of British factories, or agents for or partners in British houses, or member of merchants trading to Levant seas.

Declaration to be made by subscribing owners previous to registry.

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3 & 4 W. 4.
c. 55.

Proportion of
owners who
shall subscribe
and take the
declaration.

case there shall be two joint owners, then by both of such joint owners if both shall be resident within twenty miles of the port or place where such registry is required, or by one of such owners if one or both of them shall be resident at a greater distance from such port or place; or if the number of such owners or proprietors shall exceed two, then by the greater part of the number of such owners or proprietors if the greatest number of them shall be resident within twenty miles of such port or place as aforesaid, not in any case exceeding three of such owners or proprietors, unless a greater number shall be desirous to join in making and subscribing the said declaration, or by one of such owners if all, or all except one, shall be resident at a greater distance:

Form of declaration.

‘ I A. B. of [place of residence and occupation] do truly declare, That the ship or vessel [name] [of port or place], whereof [master's name] is at present master, being [kind of built, burthen, et cetera, as described in the certificate of the surveying officer], was [when and where built, or, if prize or forfeited, capture and condemnation as such], and that I the said A. B. [and the other owners' names and occupations, if any, and where they respectively reside, videlicet, town, place, or parish, and county, or if member of and resident in any factory in foreign parts, or in any foreign town or city, being an agent for or partner in any house or copartnership actually carrying on trade in Great Britain or Ireland, the name of such factory, foreign town, or city, and the names of such house or copartnership] am [or are] sole owner [or owners] of the said vessel, and that no other person or persons whatever hath or have any right, title, interest, share, or property therein or thereto; and that I the said A. B. [and the said other owners, if any] am [or are] truly and bona fide a subject [or subjects] of Great Britain; and that I the said A. B. have not [nor have any of the other owners, to the best of my knowledge and belief] taken the oath of allegiance to any foreign state whatever [except under the terms of some capitulation, describing the particulars thereof] or that since my taking [or his or their taking] the oath of allegiance to [naming the foreign states respectively to which he or any of the said owners shall have taken the same] I have [or he or they hath or have] become a denizen [or denizens, or naturalized subject or subjects, as the case may be] of the united kingdom of Great Britain and Ireland by his Majesty's letters patent or by an act of parliament [naming the times when such letters of denization have been granted respectively, or the year or years in which such act or acts for naturalization have passed respectively]; and that no foreigner, directly or indirectly, hath any share or part interest in the said ship or vessel.’

Provided always, That if it shall become necessary to register any ship or vessel belonging to any corporate body in the united kingdom, the following declaration, in lieu of the declaration herein-before directed, shall be taken and subscribed by the secretary or other proper officer of such corporate body; (that is to say,)

‘ I A. B. secretary or officer of [name of company or corporation] do truly declare, That the ship or vessel [name] of [port] whereof [master's name] is at present master, being [kind of built, burthen, et cetera, as described in the certificate of the surveying officer] was [when and where built, or, if prize or forfeited, capture and condemnation as such], and that the same doth wholly and truly belong to [name of company or corporation].’

Addition to declaration in case the required number of owners do not attend.

XIV. That in case the required number of joint owners or proprietors of any ship or vessel shall not personally attend to make and subscribe the declaration herein-before directed to be made and subscribed, then and in such case such owner or owners, proprietor or proprietors, as shall personally attend and make and subscribe the declaration aforesaid, shall further declare that the part owner or part owners of such ship or vessel then absent is or are not resident within twenty miles of such port or place, and hath or have not, to the best of his or

their knowledge or belief, wilfully absented himself or themselves in order to avoid the making the declaration herein-before directed to be made and subscribed, or is or are prevented by illness from attending to make and subscribe the said declaration.

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3 & 4 W. 4,
c. 55.

XV. And in order to enable the collector and controller of his Majesty's customs to grant a certificate truly and accurately describing every ship or vessel to be registered in pursuance of this act, and also to enable all other officers of his Majesty's customs, on due examination, to discover whether any such ship or vessel is the same with that for which a certificate is alleged to have been granted; be it enacted, That previous to the registering or granting of any certificate of registry as aforesaid some one or more person or persons appointed by the commissioners of his Majesty's customs (taking to his or their assistance, if he or they shall judge it necessary, one or more person or persons skilled in the building and admeasurement of ships,) shall go on board of every such ship or vessel as is to be registered, and shall strictly and accurately examine and admeasure every such ship or vessel as to all and every particular contained in the form of the certificate herein-before directed, in the presence of the master, or of any other person who shall be appointed for that purpose on the part of the owner or owners, or in his or their absence by the said master; and shall deliver a true and just account in writing of all such particulars of the built, description, and admeasurement of every such ship or vessel as are specified in the form of the certificate above recited to the collector and controller authorized as aforesaid to make such registry and grant such certificate of registry; and the said master or other person attending on the part of the owner or owners is hereby required to sign his name also to the certificate of such surveying or examining officer, in testimony of the truth thereof, provided such master or other person shall consent and agree to the several particulars set forth and described therein.

Vessels to be surveyed previous to registry.

Certificate of survey to be given;

Owner or master concurring therein.

XVI. That for the purpose of ascertaining the tonnage of ships or vessels the rule for admeasurement shall be as follows; (that is to say,) the length shall be taken on a straight line along the rabbet of the keel, from the back of the main stern-post to a perpendicular line from the fore part of the main stem under the bowsprit, from which subtracting three-fifths of the breadth, the remainder shall be esteemed the just length of the keel to find the tonnage; and the breadth shall be taken from the outside of the outside plank in the broadest part of the ship, whether that shall be above or below the main wales, exclusive of all manner of doubling planks that may be wrought upon the sides of the ship; then multiplying the length of the keel by the breadth so taken, and that product by half the breadth, and dividing the whole by ninety-four, the quotient shall be deemed the true contents of the tonnage.

Mode of admeasurement to ascertain tonnage. (1)

XVII. And whereas it would in some cases endanger ships or vessels to cause them to be laid on shore; be it therefore enacted, That in cases where it may be necessary to ascertain the tonnage of any ship or vessel when afloat, according to the foregoing rule, the following method shall be observed; (that is to say,) drop a plumb line over the stern of the ship, and measure the distance between such line and the after part of the stern-post at the load watermark, then measure from the top of the plumb line, in a parallel direction with the water, to a perpendicular point immediately over the load watermark at the fore part of the main stem, subtracting from such measurement the above distance, the remainder will be the ship's extreme, from which is to be deducted three inches for every foot of the load draught of water for the rake abaft, also three-fifths of the ship's breadth for the rake forward, the remainder shall be esteemed the just length of the keel to find the tonnage; and the breadth shall be taken from outside to outside of the plank in the broadest part of the ship, whether that shall be above or

Mode of ascertaining tonnage when vessels are afloat.

No. XIII.
3 & 4 W. 4,
c. 55.

Engine room in
steam vessels
to be deducted.

Tonnage when
so ascertained
to be ever after
deemed the
tonnage.

Bond to be
given at the
time of registry.

Conditions that
the certificate
shall be solely
made use of for
the service of
the vessel, or
given up to be
cancelled in
certain cases.

below the main wales, exclusive of all manner of sheathing or doubling that may be wrought on the side of the ship; then multiplying the length of the keel for tonnage by the breadth so taken, and that product by half the breadth, and dividing by ninety-four, the quotient shall be deemed the true contents of the tonnage.

XVIII. Provided always, That in each of the several rules herein-before prescribed, when used for the purpose of ascertaining the tonnage of any ship or vessel propelled by steam, the length of the engine room shall be deducted from the whole length of such ship or vessel, and the remainder shall, for such purpose, be deemed the whole length of the same.

XIX. That whenever the tonnage of any ship or vessel shall have been ascertained according to the rule herein prescribed (except in the case of ships or vessels which have been admeasured afloat), such account of tonnage shall ever after be deemed the tonnage of such ship or vessel, and shall be repeated in every subsequent registry of such ship or vessel, unless it shall happen that any alteration has been made in the form and burthen of such ship or vessel, or it shall be discovered that the tonnage of such ship or vessel had been erroneously taken and computed.

XX. That at the time of the obtaining of the certificate of registry as aforesaid sufficient security by bond shall be given to his Majesty, his heirs and successors, by the master and such of the owners as shall personally attend, as is herein-before required, such security to be approved of and taken by the person or persons herein-before authorized to make such registry and grant such certificate of registry at the port or place in which such certificate shall be granted, in the penalties following; (that is to say,) if such ship or vessel shall be a decked vessel, or be above the burthen of fifteen tons and not exceeding fifty tons, then in the penalty of one hundred pounds; if exceeding the burthen of fifty tons and not exceeding one hundred tons, then in the penalty of three hundred pounds; if exceeding the burthen of one hundred tons and not exceeding two hundred tons, then in the penalty of five hundred pounds; if exceeding the burthen of two hundred tons and not exceeding three hundred tons, then in the penalty of eight hundred pounds; and if exceeding the burthen of three hundred tons, then in the penalty of one thousand pounds; and the condition of every such bond shall be, that such certificate shall not be sold, lent, or otherwise disposed of to any person or persons whatever, and that the same shall be solely made use of for the service of the ship or vessel for which it is granted; and that in case such ship or vessel shall be lost, or taken by the enemy, burnt, or broken up, or otherwise prevented from returning to the port to which she belongs, or shall on any account have lost and forfeited the privileges of a British ship, or shall have been seized and legally condemned for illicit trading, or shall have been taken in execution for debt, and sold by due process of law, or shall have been sold to the crown, or shall under any circumstances have been registered *de novo*, the certificate, if preserved, shall be delivered up, within one month after the arrival of the master in any port or place in his Majesty's dominions, to the collector and controller of some port in Great Britain, or of the isle of Man, or of the British plantations, or to the governor, lieutenant governor, or commander in chief for the time being of the islands of Guernsey or Jersey; and that if any foreigner, or any person or persons for the use and benefit of any foreigner, shall purchase or otherwise become entitled to the whole or to any part or share of or any interest in such ship or vessel, and the same shall be within the limits of any port of Great Britain, or of the islands of Guernsey, Jersey, or Man, or of the British colonies, plantations, islands, or territories aforesaid, then and in such case the certificate of registry, shall, within seven days after such purchase or transfer of property in such ship or vessel, be delivered up to the person or persons herein-before authorized to make registry and grant certificate of

registry at such port or place respectively as foresaid; and if such ship or vessel shall be in any foreign port when such purchase or transfer of property shall take place, then that the certificate shall be delivered up to the British consul or other chief British officer resident at or nearest to such foreign port; or if such ship or vessel shall be at sea when such purchase or transfer of property shall take place, then that the certificate shall be delivered up to the British consul or other chief British officer at the foreign port or place in or at which the master or other person having or taking the charge or command of such ship or vessel shall first arrive after such purchase or transfer of property at sea, immediately after his arrival at such foreign port; but if such master or other person who had the command thereof at the time of such purchase or transfer of property at sea shall not arrive at a foreign port, but shall arrive at some port of Great Britain, or of the islands of Guernsey, Jersey, or Man, or of his Majesty's said colonies, plantations, islands, or territories, then that the certificate shall be delivered up, in manner aforesaid, within fourteen days after the arrival of such ship or vessel, or of the person who had the command thereof, in any port of Great Britain, or of the islands of Guernsey, Jersey, or Man, or of any of his Majesty's said colonies, plantations, islands, or territories: Provided always, That if it shall happen that at the time of registry of any ship or vessel the same shall be at any other port than the port to which she belongs, so that the master of such ship or vessel cannot attend at the port of registry to join with the owner or owners in such bond as aforesaid, it shall be lawful for him to give a separate bond, to the like effect, at the port where such ship or vessel may then be, and the collector and controller of such other port shall transmit such bond to the collector and controller of the port where such ship or vessel is to be registered, and such bond, and the bond also given by the owner or owners, shall together be of the same effect against the master and owner or owners, or either of them, as if they had bound themselves jointly and severally in one bond.

XXI. That when and so often as the master or other person having or taking the charge or command of any ship or vessel registered in manner herein-before directed shall be changed, the master or owner of such ship or vessel shall deliver to the person or persons herein-before authorized to make such registry and grant such certificates of registry at the port where such change shall take place the certificate of registry belonging to such ship or vessel, who shall thereupon indorse and subscribe a memorandum of such change, and shall forthwith give notice of the same to the proper officer of the port or place where such ship or vessel was last registered pursuant to this act, who shall likewise make a memorandum of the same in the book of registers which is hereby directed and required to be kept, and shall forthwith give notice thereof to the commissioners of his Majesty's customs: Provided always, That before the name of such new master shall be indorsed on the certificate of registry he shall be required to give and shall give a bond in the like penalties and under the same conditions as are contained in the bond herein-before required to be given at the time of registry of any ship or vessel.

XXII. That all bonds required by this act shall be liable to the same duties of stamps as bonds given for or in respect of the duties of customs are or shall be liable to under any act for the time being in force for granting duties of stamps.

XXIII. That if any person whatever shall at any time have possession of and wilfully detain any certificate of registry granted under this or any other act, which ought to be delivered up to be cancelled according to any of the conditions of the bond herein-before required to be given upon the registry of any ship or vessel, such person is hereby required and enjoined to deliver up such certificate of registry in manner directed by the conditions of such bond in the respective cases and under the respective penalties therein provided.

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3 & 4 W. 4,
c. 55.

If ship at the time of registry be at any other port than that of registry, the master may there give bond.

When master is changed new master to give similar bond, and his name to be indorsed on certificate of registry.

Bonds liable to same duties of stamps as bonds for customs.

Certificate of registry to be given up by all persons as directed by the bond.

No. XIII.

3 & 4 W. 4,
c. 55.

Name of vessel which has been registered never afterwards to be changed, and to be painted on the stern.

Penalty for omission, 100l.

XXIV. That it shall not be lawful for any owner or owners of any ship or vessel to give any name to such ship or vessel other than that by which she was first registered in pursuance of this or any other act; and that the owner or owners of all and every ship or vessel which shall be so registered shall, before such ship or vessel, after such registry, shall begin to take in any cargo, paint or cause to be painted, in white or yellow letters, of a length of not less than four inches, upon a black ground, on some conspicuous part of the stern, the name by which such ship or vessel shall have been registered pursuant to this act, and the port to which she belongs, in a distinct and legible manner, and shall so keep and preserve the same; and that if such owner or owners or master or other person having or taking the charge or command of such ship or vessel shall permit such ship or vessel to begin to take in any cargo before the name of such ship or vessel has been so painted as aforesaid, or shall wilfully alter, erase, obliterate, or in anywise hide or conceal, or cause or procure or permit the same to be done (unless in the case of square-rigged vessels in time of war), or shall in any written or printed paper, or other document, describe such ship or vessel by any name other than that by which she was first registered pursuant to this act, or shall verbally describe, or cause or procure or permit such ship or vessel to be described, by any other name to any officer or officers of his Majesty's revenue in the due execution of his or their duty, then and in every such case such owner or owners or master or other person having or taking the charge or command of such ship or vessel shall forfeit the sum of one hundred pounds.

Builder's certificate of particulars of ship.

XXV. That all and every person and persons who shall apply for a certificate of the registry of any ship or vessel shall and they are hereby required to produce to the person or persons authorized to grant such certificate a true and full account, under the hand of the builder of such ship or vessel, of the proper denomination, and of the time when and the place where such ship or vessel was built, and also an exact account of the tonnage of such ship or vessel, together with the name of the first purchaser or purchasers thereof (which account such builder is hereby directed and required to give under his hand on the same being demanded by such person or persons so applying for a certificate as aforesaid), and shall also make and subscribe a declaration before the person or persons herein-before authorized to grant such certificate that the ship or vessel for which such certificate is required is the same with that which is so described by the builder as aforesaid.

Declaration to be made there-to.

Certificate of registry lost or mislaid; commissioners may permit registry *de novo*; or grant a licence.

XXVI. That if the certificate of registry of any ship or vessel shall be lost or mislaid, so that the same cannot be found or obtained for the use of such ship or vessel when needful, and proof thereof shall be made to the satisfaction of the commissioners of his Majesty's customs, such commissioners shall and may permit such ship or vessel to be registered *de novo*, and a certificate thereof to be granted: Provided always, That if such ship or vessel be absent and far distant from the port to which she belongs, or by reason of the absence of the owner or owners, or of any other impediment, registry of the same cannot then be made in sufficient time, such commissioners shall and may grant a licence for the present use of such ship or vessel, which licence shall, for the time and to the extent specified therein, and no longer, be of the same force and virtue as a certificate of registry granted under this act: Provided always, That before such registry *de novo* be made the owner or owners and master shall give bond to the commissioners aforesaid in such sum as to them shall seem fit, with a condition that if the certificate of registry shall at any time afterwards be found the same shall be forthwith delivered to the proper officers of his Majesty's customs to be cancelled, and that no illegal use has been or shall be made thereof with his or their privity or knowledge; and further, that before any such licence shall be granted as aforesaid the master of such ship or vessel shall also make and subscribe a declaration that the same has been registered as a British ship, naming the port where and the time when such registry

Bond respecting lost certificate of registry:

Condition.

Declaration to be made before licence be granted.

was made, and all the particulars contained in the certificate thereof, to the best of his knowledge and belief, and shall also give such bond and with the same condition as is before mentioned: Provided also, That before any such licence shall be granted such ship or vessel shall be surveyed in like manner as if a registry *de novo* were about to be made thereof; and the certificate of such survey shall be preserved by the collector and controller of the port to which such ship or vessel shall belong; and in virtue thereof it shall be lawful for the said commissioners and they are hereby required to permit such ship or vessel to be registered after her departure, whenever the owner or owners shall personally attend to take and subscribe the declaration required by this act before registry be made, and shall also comply with all other requisites of this act, except so far as relates to the bond to be given by the master of such ship or vessel; which certificate of registry the said commissioners shall and may transmit to the collector and controller of any other port, to be by them given to the master of such ship or vessel, upon his giving such bond, and delivering up the licence which had been granted for the then present use of such ship or vessel.

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c. 55.

Before licence be granted ship to be surveyed as if for registry; and registry may be made after departure of the ship; and certificate transmitted to be exchanged for the licence.

XXVII. And whereas it is not proper that any person under any pretence whatever should detain the certificate of registry of any ship or vessel, or hold the same for any purpose other than the lawful use and navigation of the ship or vessel for which it was granted; be it therefore enacted, That in case any person who shall have received or obtained by any means or for any purpose whatever the certificate of the registry of any ship or vessel (whether such person shall claim to be the master or to be the owner or one of the owners of such ship or vessel, or not) shall wilfully detain and refuse to deliver up the same to the proper officers of his Majesty's customs, for the purposes of such ship or vessel, as occasion shall require, or to the person or persons having the actual command, possession, and management of such ship or vessel as the ostensible and reputed master, or as the ostensible and reputed owner or owners thereof, it may and shall be lawful to and for any such last-mentioned person to make complaint on oath of such detainer and refusal to any justice of the peace residing near to the place where such detainer and refusal shall be in Great Britain or Ireland, or to any member of the supreme court of justice or any justice of the peace in the islands of Jersey, Guernsey, or Man, or in any colony, plantation, island, or territory to his Majesty belonging in Asia, Africa, or America, or in Malta, Gibraltar, or Heligoland, where such detainer and refusal shall be in any of the places last mentioned; and on such complaint the said justice or other magistrate shall and is hereby required, by warrant under his hand and seal, to cause the person so complained against to be brought before him to be examined touching such detainer and refusal; and if it shall appear to the said justice or other magistrate, on examination of such person or otherwise, that the said certificate of registry is not lost or mislaid, but is wilfully detained by the said person, such person shall be thereof convicted, (1) and shall forfeit and pay the sum of one hundred pounds, and on failure of payment thereof he shall be committed to the common gaol, there to remain without bail or mainprize for such time as the said justice or other magistrate shall in his discretion deem proper, not being less than three months nor more than twelve months; and the said justice or other magistrate shall and he is hereby required to certify the aforesaid detainer, refusal, and conviction to the person or persons who granted such certificate of registry for such ship or vessel, who shall, on the terms and

Persons detaining certificate of registry to forfeit 100l.

Justice to certify detainer, and ship to be registered *de novo*.

(1) A conviction under this section for detaining the certificate of a ship's registry is bad, unless it state the purpose for which the certificate was required, and that the person demanding it was the proper officer. *Re: v. Walsh*, 3 Nev. & M. 632.

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3 & 4 W. 4,
c. 45.

If person detaining certificate have absconded, ship may be registered as in case of lost certificate.

Ship altered in certain manner to be registered *de novo*.

Vessels condemned as prize, or for breach of laws against slave trade certificate of condemnation to be produced.

Prize vessels not to be registered at Guernsey, Jersey, or Man; but at certain ports.

Transfers of interest to be made by bill of sale;

reciting certificate of registry. Bill of sale not void by unimportant error of recital, &c.

conditions of law being complied with, make registry of such ship or vessel *de novo*, and grant a certificate thereof conformably to law, notifying on the back of such certificate the ground upon which the ship or vessel was so registered *de novo*; and if the person who shall have detained and refused to deliver up such certificate of registry as aforesaid, or shall be verily believed to have detained the same, shall have absconded, so that the said warrant of the justice or other magistrate cannot be executed upon him, and proof thereof shall be made to the satisfaction of the commissioners of his Majesty's customs, it shall be lawful for the said commissioners to permit such ship or vessel to be registered *de novo*, or otherwise, in their discretion, to grant a licence for the present use of such ship or vessel in like manner as is herein-before provided in the case wherein the certificate of registry is lost or mislaid.

XXVIII. That if any ship or vessel, after she shall have been registered pursuant to the directions of this act, shall in any manner whatever be altered so as not to correspond with all the particulars contained in the certificate of her registry, in such case such ship or vessel shall be registered *de novo*, in manner herein-before required, as soon as she returns to the port to which she belongs, or to any other port which shall be in the same part of the united kingdom, or in the same colony, plantation, island, or territory, as the said port shall be in, on failure whereof such ship or vessel shall to all intents and purposes be considered and deemed and taken to be a ship or vessel not duly registered.

XXIX. That the owner or owners of all such ships and vessels as shall be taken by any of his Majesty's ships or vessels of war, or by any private or other ship or vessel, and condemned as lawful prize in any court of admiralty, or of such ships or vessels as shall be condemned in any competent court as forfeited for breach of the laws for the prevention of the slave trade, shall, for the purpose of registering any such ship or vessel, produce to the collector and controller of his Majesty's customs a certificate of the condemnation of such ship or vessel, under the hand and seal of the judge of the court in which such ship or vessel shall have been condemned (which certificate such judge is hereby authorized and required to grant), and also a true and exact account in writing of all the particulars contained in the certificate herein-before set forth, to be made and subscribed by one or more skilful person or persons to be appointed by the court then and there to survey such ship or vessel, and shall also make and subscribe a declaration before the collector and controller that such ship or vessel is the same vessel which is mentioned in the certificate of the judge aforesaid.

XXX. Provided always, That no ship or vessel which shall be taken and condemned as prize or forfeiture as aforesaid shall be registered in the islands of Guernsey, Jersey, or Man, although belonging to his Majesty's subjects residing in those islands, or in some one or other of them; but the same shall be registered either at Southampton, Weymouth, Exeter, Plymouth, Falmouth, Liverpool, or Whitehaven, by the collector and controller at such ports respectively, who are hereby authorized and required to register such ship or vessel, and to grant a certificate thereof in the form and under the regulations and restrictions in this act contained.

XXXI. That when and so often as the property in any ship or vessel, or any part thereof, belonging to any of his Majesty's subjects, shall, after registry thereof, be sold to any other or others of his Majesty's subjects, the same shall be transferred by bill of sale or other instrument in writing, containing a recital of the certificate of registry of such ship or vessel, or the principal contents thereof, otherwise such transfer shall not be valid or effectual for any purpose whatever, either in law or in equity: Provided always, That no bill of sale shall be deemed void by reason of any error in such recital, or by the recital of any former certificate of registry instead of the existing certificate, provided the

identity of the ship or vessel intended in the recital be effectually proved thereby.

XXXII. That the property in every ship or vessel of which there are more than one owner shall be taken and considered to be divided into sixty-four equal parts or shares, and the proportion held by each owner shall be described in the registry as being a certain number of sixty-fourth parts or shares; and that no person shall be entitled to be registered as an owner of any ship or vessel in respect of any proportion of such ship or vessel which shall not be an integral sixty-fourth part or share of the same; and upon the first registry of any ship or vessel the owner or owners who shall take and subscribe the declaration required by this act before registry be made shall also declare the number of such parts or shares then held by each owner, and the same shall be so registered accordingly: Provided always, That if it shall at any time happen that the property of any owner or owners in any ship or vessel cannot be reduced by division into any number of integral sixty-fourth parts or shares, it shall and may be lawful for the owner or owners of such fractional parts as shall be over and above such number of integral sixty-fourth parts or shares into which such property in any ship or vessel can be reduced by division to transfer the same one to another, or jointly to any new owner, by memorandum upon their respective bills of sale, or by fresh bill of sale, without such transfer being liable to any stamp duty: Provided also, That the right of any owner or owners to any such fractional parts shall not be affected by reason of the same not having been registered: Provided also, That it shall be lawful for any number of such owners, named and described in such registry, being partners in any house or copartnership actually carrying on trade in any part of his Majesty's dominions, to hold any ship or vessel, or any share or shares of any ship or vessel, in the name of such house or copartnership, as joint owners thereof, without distinguishing the proportionate interest of each of such owners, and that such ship or vessel or the share or shares thereof so held in copartnership shall be deemed and taken to be partnership property to all intents and purposes, and shall be governed by the same rules, both in law and equity, as relate to and govern all other partnership property in any other goods, chattels, and effects whatsoever.

XXXIII. That no greater number than thirty-two persons shall be entitled to be legal owners at one and the same time of any ship or vessel, as tenants in common, or to be registered as such: Provided always, That nothing herein contained shall affect the equitable title of minors, heirs, legatees, creditors, or others, exceeding that number, duly represented by or holding from any of the persons within the said number, registered as legal owners of any share or shares of such ship or vessel: Provided also, That if it shall be proved to the satisfaction of the commissioners of his Majesty's customs that any number of persons have associated themselves as a joint stock company, for the purpose of owning any ship or vessel, or any number of ships or vessels, as the joint property of such company, and that such company have duly elected or appointed any number, not less than three, of the members of the same to be trustees of the property in such ship or vessel or ships or vessels so owned by such company, it shall be lawful for such trustees or any three of them, with the permission of such commissioners, to make and subscribe the declaration required by this act before registry be made, except that instead of stating therein the names and descriptions of the other owners, they shall state the name and description of the company to which such ship or vessel or ships or vessels shall in such manner belong.

XXXIV. That no bill of sale or other instrument in writing shall be valid and effectual to pass the property in any ship or vessel, or in any share thereof, or for any other purpose, until such bill of sale or other instrument in writing shall have been produced to the collector and controller of the port at which such ship or vessel is already registered,

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Property in ships to be divided into sixty-four parts or shares.

Declaration upon first registry to state the number of such shares held by each owner.

Smaller portions may be conveyed without stamp.

Partners may hold ships or shares without distinguishing proportionate interest of each owner.

Only thirty-two persons to be owners of any ship at one time.

Not to affect the equitable title of heirs, &c.

Joint stock companies.

Trustees may apply to have registry made.

Bills of sale not effectual until produced to officers of customs, and en-

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tered in the
book of registry
or of intended
registry.

or to the collector and controller of any other port at which she is about to be registered *de novo*, as the case may be, nor until such collector and controller respectively shall have entered in the book of such last registry, in the one case, or in the book of such registry *de novo*, after all the requisites of law for such registry *de novo* shall have been duly complied with, in the other case, (and which they are respectively hereby required to do upon the production of the bill of sale or other instrument for that purpose,) the name, residence, and description of the vendor or mortgagor, or of each vendor or mortgagor, if more than one, the number of shares transferred, the name, residence, and description of the purchaser or mortgagee, or of each purchaser or mortgagee, if more than one, and the date of the bill of sale or other instrument, and of the production of it; and further, if such ship or vessel is not about to be registered *de novo*, the collector and controller of the port where such ship is registered shall and they are hereby required to indorse the aforesaid particulars of such bill of sale or other instrument on the certificate of registry of the said ship or vessel, when the same shall be produced to them for that purpose, in manner and to the effect following; *videlicet*,

Form of In-
dorsement.

' Custom house [port and date; name, residence, and description of vendor
' or mortgagor] has transferred by [bill of sale or other instrument]
' dated [date, number of shares] to [name, residence, and description of
' purchaser or mortgagee.]

A. B. Collector.
C. D. Controller.'

Notice to com-
missioners.

And forthwith to give notice thereof to the commissioners of customs; and in case the collector and controller shall be desired so to do, and the bill of sale or other instrument shall be produced to them for that purpose, then the said collector and controller are hereby required to certify, by indorsement upon the bill of sale or other instrument, that the particulars before mentioned have been so entered in the book of registry, and indorsed upon the certificate of registry as aforesaid.

Entry of bill of
sale to be valid,
except in cer-
tain cases

XXXV. That when and so soon as the particulars of any bill of sale or other instrument by which any ship or vessel, or any share or shares thereof, shall be transferred, shall have been so entered in the book of registry as aforesaid, the said bill of sale or other instrument shall be valid and effectual to pass the property thereby intended to be transferred as against all and every person and persons whatsoever, and to all intents and purposes, except as against such subsequent purchasers and mortgagees who shall first procure the indorsement to be made upon the certificate of registry of such ship or vessel in manner herein-after mentioned.

When a bill of
sale has been
entered for any
shares, thirty
days shall be
allowed for in-
dorsing the
certificate of
registry, before
any other bill
of sale for the
same shall be
entered.

XXXVI. That when and after the particulars of any bill of sale or other instrument by which any ship or vessel, or any share or shares thereof, shall be transferred, shall have been so entered in the book of registry as aforesaid, the collector and controller shall not enter in the book of registry the particulars of any other bill of sale or instrument purporting to be a transfer by the same vendor or mortgagor or vendors or mortgagors of the same ship or vessel, share or shares thereof, to any other person or persons, unless thirty days shall elapse from the day on which the particulars of the former bill of sale or other instrument were entered in the book of registry; or in case the ship or vessel was absent from the port to which she belonged at the time when the particulars of such former bill of sale or other instrument were entered in the book of registry, then unless thirty days shall have elapsed from the day on which the ship or vessel arrived at the port to which the same belonged; and in case the particulars of two or more such bills of sale or other instruments as aforesaid shall at any time have been entered in the book of registry of the said ship or vessel, the collector and controller shall not enter in the book of registry the particulars of

any other bill of sale or other instrument as aforesaid unless thirty days shall in like manner have elapsed from the day on which the particulars of the last of such bill of sale or other instrument were entered in the books of registry, or from the day on which the ship or vessel arrived at the port to which she belonged, in case of her absence as aforesaid; and in every case where there shall at any time happen to be two or more transfers by the same owner or owners of the same property in any ship or vessel entered in the book of registry as aforesaid, the collector and controller are hereby required to indorse upon the certificate of registry of such ship or vessel the particulars of that bill of sale or other instrument under which the person or persons claims or claim property who shall produce the certificate of registry for that purpose within thirty days next after the entry of his said bill of sale or other instrument in the book of registry as aforesaid, or within thirty days next after the return of the said ship or vessel to the port to which she belongs, in case of her absence at the time of such entry as aforesaid; and in case no person or persons shall produce the certificate of registry within either of the said spaces of thirty days, then it shall be lawful for the collector and controller, and they are hereby required, to indorse upon the certificate of registry the particulars of the bill of sale or other instrument to such person or persons as shall first produce the certificate of registry for that purpose, it being the true intent and meaning of this act that the several purchasers and mortgagees of such ship or vessel, share or shares thereof, when more than one appear to claim the same property, or to claim security on the same property, in the same rank and degree, shall have priority one over the other, not according to the respective times when the particulars of the bill of sale or other instrument by which such property was transferred to them were entered in the book of registry as aforesaid, but according to the time when the indorsement is made upon the certificate of registry as aforesaid: Provided always, That if the certificate of registry shall be lost or mislaid, or shall be detained by any person whatever, so that the indorsement cannot in due time be made thereon, and proof thereof shall be made by the purchaser or mortgagee, or his known agent, to the satisfaction of the commissioners of his Majesty's customs, it shall be lawful for the said commissioners to grant such further time as to them shall appear necessary for the recovery of the certificate of registry, or for the registry *de novo* of the said ship or vessel under the provisions of this act, and thereupon the collector and controller shall make a memorandum in the book of registers of the further time so granted, and during such time no other bill of sale shall be entered for the transfer of the same ship or vessel, or the same share or shares thereof, or for giving the same security thereon.

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c. 55.

**Nature of the
priority in-
tended in this
act.**

**Provision in
case certificate
be mislaid.**

XXXVII. That if the certificate of registry of such ship or vessel shall be produced to the collector and controller of any port where she may then be, after any such bill of sale shall have been recorded at the port to which she belongs, together with such bill of sale, containing a notification of such record, signed by the collector and controller of such port as before directed, it shall be lawful for the collector and controller of such other port to indorse on such certificate of registry (being required so to do) the transfer mentioned in such bill of sale, and such collector and controller shall give notice thereof to the collector and controller of the port to which such ship or vessel belongs, who shall record the same in like manner as if they had made such indorsement themselves, but inserting the name of the port at which such indorsement was made: Provided always, that the collector and controller of such other port shall first give notice to the collector and controller of the port to which such ship or vessel belongs of such requisition made to them to indorse the certificate of registry, and the collector and controller of the port to which such ship or vessel belongs shall thereupon send information to the collector and controller of such other port, whether any and what other bill or bills of sale have been Bills of sale may be produced after entry at other ports than those to which vessels belong, and transfers indorsed on certificate of registry.

Previous notice to be given to officers at the port of registry.

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If upon registry *de novo* any bill of sale shall not have been recorded, the same shall then be produced.

Bill of sale previous to registry may be recorded after registry.

Upon change of property, registry *de novo* may be granted if desired, although not required by law.

Copies of declarations, &c. and of extracts from books of registry admitted in evidence.

Vessels or shares sold in the absence of owners without formal powers.

Commissioners may permit record of such sales or regis-

recorded in the book of the registry of such ship or vessel; and the collector and controller of such other port having such information shall proceed in manner directed by this act in all respects to the indorsing of the certificate of registry as they would do if such port were the port to which such vessel belonged.

XXXVIII. That if it shall become necessary to register any ship or vessel *de novo*, and any share or shares of such ship or vessel shall have been sold since she was last registered, and the transfer of such share or shares shall not have been recorded and indorsed in manner herein-before directed, the bill of sale thereof shall be produced to the collector and controller of his Majesty's customs, who are to make registry of such ship or vessel, otherwise such sale shall not be noticed in such registry *de novo*, except as herein-after excepted: Provided always, That upon the future production of such bill of sale, and of the existing certificate of registry, such transfer shall and may be recorded and indorsed as well after such registry *de novo* as before.

XXXIX. That if upon any change of property in any ship or vessel the owner or owners shall desire to have the same registered *de novo*, although not required by this act, and the owner or proper number of owners shall attend at the custom house at the port to which such ship or vessel belongs for that purpose, it shall be lawful for the collector and controller of his Majesty's customs at such port to make registry *de novo* of such ship or vessel at the same port, and to grant a certificate thereof, the several requisites herein-before in this act mentioned and directed being first duly observed and complied with.

XL. And whereas great inconvenience hath arisen from the registering officers being served with subpoenas requiring them to bring with them and produce, on trials in courts of law relative to the ownership of vessels, or otherwise, the oaths or declarations required to be taken by the owners thereof prior to the registering thereof, and the books of registry, or copies or extracts therefrom: And whereas it would tend much to the dispatch of business if the attendance of such registering officers with the same upon such trials were dispensed with; be it therefore enacted, That the collector and controller of his Majesty's customs at any port or place, and the person or persons acting for them respectively, shall, upon every reasonable request by any person or persons whomsoever, produce and exhibit for his, her, or their inspection and examination any oath or declaration sworn or made by any such owner or owners, proprietor or proprietors, and also any register or entry in any book or books of registry required by this act to be made or kept relative to any ship or vessel, and shall, upon every reasonable request by any person or persons whomsoever, permit him, her, or them to take a copy or copies or an extract or extracts thereof respectively; and that the copy and copies of any such oath or declaration, register or entry, shall, upon being proved to be a true copy or copies thereof respectively, be allowed and received as evidence upon every trial at law, without the production of the original or originals, and without the testimony or attendance of any collector or controller, or other person or persons acting for them respectively, in all cases, as fully and to all intents and purposes as such original or originals, if produced by any collector or collectors, controller or controllers, or other person or persons acting for them, could or might legally be admitted or received in evidence.

XLI. That if the ship or vessel, or the share or shares of any owner thereof who may be out of the kingdom, shall be sold in his absence by his known agent or correspondent, under his directions either expressed or implied, and acting for his interest in that behalf, and such agent or correspondent who shall have executed a bill of sale to the purchaser of the whole of such ship or vessel, or of any share or shares thereof, shall not have received a legal power to execute the same, it shall be lawful for the commissioners of his Majesty's customs, upon application made to them, and proof to their satisfaction of the fair dealings of the

parties, to permit such transfer to be registered, if registry *de novo* be necessary, or to be recorded and indorsed, as the case may be, in manner directed by this act, as if such legal power had been produced; and also if it shall happen that any bill of sale cannot be produced, or if, by reason of distance of time, or the absence or death of parties concerned, it cannot be proved that a bill of sale for any share or shares in any ship or vessel had been executed, and registry *de novo* of such ship or vessel shall have become necessary, it shall be lawful for the commissioners of his Majesty's customs, upon proof to their satisfaction of the fair dealings of the parties, to permit such ship or vessel to be registered *de novo* in like manner as if a bill of sale for the transfer of such share or shares had been produced: Provided always, That in any of the cases herein mentioned good and sufficient security shall be given to produce a legal power or bill of sale within a reasonable time, or to abide the future claims of the absent owner, his heirs and successors, as the case may be; and at the future request of the party whose property has been so transferred, without the production of a bill of sale from him or from his lawful attorney, such bond shall be available for the protection of his interest, in addition to any powers or rights which he may have in law or equity against the ship or vessel, or against the parties concerned, until he shall have received full indemnity for any loss or injury sustained by him.

XLII. That when any transfer of any ship or vessel, or of any share or shares thereof, shall be made only as a security for the payment of a debt or debts, either by way of mortgage, or of assignment to a trustee or trustees for the purpose of selling the same for the payment of any debt or debts, then and in every such case the collector and controller of the port where the ship or vessel is registered shall, in the entry in the book of registry, and also in the indorsement on the certificate of registry, in manner herein-before directed, state and express that such transfer was made only as a security for the payment of a debt or debts, or by way of mortgage, or to that effect; and the person or persons to whom such transfer shall be made, or any other person or persons claiming under him or them as a mortgagee or mortgagees, or a trustee or trustees only, shall not by reason thereof be deemed to be the owner or owners of such ship or vessel, share or shares thereof, nor shall the person or persons making such transfer be deemed by reason thereof to have ceased to be an owner or owners of such ship or vessel, any more than if no such transfer had been made, except so far as may be necessary for the purpose of rendering the ship or vessel, share or shares so transferred, available by sale or otherwise for the payment of the debt or debts for securing the payment of which such transfer shall have been made.

XLIII. That when any transfer of any ship or vessel, or of any share or shares thereof, shall have been made as a security for the payment of any debt or debts, either by way of mortgage or of assignment as aforesaid, and such transfer shall have been duly registered according to the provisions of this act, the right or interest of the mortgagee or other assignee as aforesaid shall not be in any manner affected by any act or acts of bankruptcy committed by such mortgagor or assignor, mortgagors or assignors, after the time when such mortgage or assignment shall have been so registered as aforesaid, notwithstanding such mortgagor or assignor, mortgagors or assignors, at the time he or they shall so become bankrupt as aforesaid, shall have in his or their possession, order, and disposition, and shall be the reputed owner or owners of the said ship or vessel, or the share or shares thereof, so by him or them mortgaged or assigned as aforesaid, but that such mortgage or assignment shall take place of and be preferred to any right, claim, or interest which may belong to the assignee or assignees of such bankrupt or bankrupts in such ship or vessel, share or shares thereof, any law or statute to the contrary thereof notwithstanding.

No. XIII.
3 & 4 W. 4,
c. 55.

try *de novo* as the case may require; and in other cases where bills of sale cannot be produced; security being given to produce legal powers or abide future claims.

Transfer by way of mortgage.

Mortgagee not to be deemed an owner.

Transfers of ships for security of debts being registered, rights of mortgage not affected by any act of bankruptcy of mortgagor, &c.

No. XIII.
3 & 4 W. 4,
c. 55.

Governors of
colonies, &c.
may cause pro-
ceedings in
suits to be
stayed.

XLIV. That it shall and may be lawful for any governor, lieutenant governor, or commander in chief of any of his Majesty's colonies, plantations, islands, or territories, and they are hereby respectively authorized and required, if any suit, information, libel, or other prosecution or proceeding of any nature or kind whatever shall have been commenced or shall hereafter be commenced in any court whatever in any of the said colonies, plantations, islands, or territories respectively, touching the force and effect of any register granted to any ship or vessel, upon a representation made to any such governor, lieutenant governor, or commander in chief, to cause all proceedings thereon to be stayed, if he shall see just cause so to do, until his Majesty's pleasure shall be known and certified to him by his Majesty, by and with the advice of his Majesty's privy council; and such governor, lieutenant governor, or commander in chief is hereby required to transmit to one of his Majesty's principal secretaries of state, to be laid before his Majesty in council, an authenticated copy of the proceedings in every such case, together with his reasons for causing the same to be stayed, and such documents (properly verified) as he may judge necessary for the information of his Majesty.

Penalty of
500*l.* on per-
sons making
false declara-
tion, or falsify-
ing any docu-
ment.

XLV. That if any person or persons shall falsely make declaration to any of the matters herein-before required to be verified by declaration, or if any person or persons shall counterfeit, erase, alter, or falsify any certificate or other instrument in writing required or directed to be obtained, granted, or produced by this act, or shall knowingly or wilfully make use of any certificate or other instrument so counterfeited, erased, altered, or falsified, or shall wilfully grant such certificate or other instrument in writing, knowing it to be false, such person or persons shall for every such offence forfeit the sum of five hundred pounds.

How penalties
are to be reco-
vered,

XLVI. That all the penalties and forfeitures inflicted and incurred by this act shall and may be sued for, prosecuted, recovered, and disposed of in such manner, and by such ways, means, and methods, as any penalties or forfeitures inflicted or which may be incurred for any offences committed against any law relating to the customs may now legally be sued for, prosecuted, recovered, and disposed of; and that the officer or officers concerned in seizures or prosecutions under this act shall be entitled to and receive the same share of the produce arising from such seizures as in the case of seizures for unlawful importation, and to such share of the produce arising from any pecuniary fine or penalty for any offence against this act as any officer or officers is or are now by any law or regulation entitled to upon prosecutions for pecuniary penalties.

and officers'
shares.

[No. XIV.] 3 & 4 W. IV. c. 56.—An Act for granting
Duties of Customs. [28th August 1833.]

[No. XV.] 3 & 4 W. IV. c. 57.—An Act for the Ware-
housing of Goods. [28th August 1833.]

[No. XVI.] 3 & 4 W. IV. c. 58.—An Act to grant certain
Bounties and Allowances of Customs. [28th August 1833.]

[No. XVII.] 3 & 4 W. IV. c. 59.—An Act to regulate the Trade of the British Possessions abroad.

[28th August 1833.]

[No. XVIII.] 3 & 4 W. IV. c. 60.—An Act for regulating the Trade of the Isle of Man.

[28th August 1833.]

[No. XIX.] 3 & 4 W. IV. c. 61.—An Act to admit Sugar without Payment of Duty to be refined for Exportation.

[28th August 1833.]

WHEREAS it is expedient to admit sugar without payment of duty to be refined for exportation, under the lock of the crown; be it therefore enacted, &c., That upon the application to the commissioners of his Majesty's customs of any person actually carrying on the business of a sugar refiner in the ports of London, Liverpool, Bristol, Hull, Greenock, or Glasgow, or any other port to be approved of by any three of the lords commissioners of his Majesty's treasury, it shall be lawful for the commissioners of his Majesty's customs, by their order, to approve of such premises as bonded sugar houses for the refining of sugar for exportation only, on it being made appear to the satisfaction of the said commissioners that the said premises are fit in every respect for receiving such sugars, and wherein the same may be safely deposited.

II. That on the approval of any premises as bonded sugar houses as aforesaid, it shall be lawful for the officers of the customs at the ports respectively where such premises are situated to deliver, without payment of duty, to the party or parties so applying as aforesaid, on entry with the proper officer of customs, any quantity of foreign sugar, or of sugar the produce of any British possession, for the purpose of being there refined, under the locks of the crown, for exportation only; and that all sugars so delivered shall be lodged and secured in such premises, under such conditions, regulations, and restrictions as the said commissioners shall from time to time direct: Provided always, That it shall be lawful for the said commissioners by their order to revoke or alter any former order of approval of any such premises.

III. That upon the entry of sugar to be refined in any premises approved of under the authority of this act, the refiner on whose premises the same is to be refined shall give bond, to the satisfaction of the officers of the customs, in the penalty of double the amount of the duty payable upon a like quantity of sugar of the British plantations, with a condition that the whole of such sugar shall be actually subjected to the process of refinement upon the said premises, and that within four months from the date of such bond the whole of the refined sugar and treacle produced by such process shall be either duly exported from the said premises, or delivered into an approved bonded warehouse, under the locks of the crown, for the purpose of being eventually exported to foreign parts.

[No. XX.] 3 & 4 W. IV. c. 88.—An Act to continue for Seven Years, and from thence to the End of the then next Session of Parliament, an Act of the Fifty-ninth Year of King George the Third (59 G. 3, c 58), for facilitating the Recovery of the Wages of Seamen in the Merchants Service.

[28th August 1833.]

[No. XXI.] 3 & 4 W. 4, c. 93.—An Act to regulate the Trade to China and India. [28th August 1833.]

Repeal of the act 4 G. 4, c. 80, except as herein mentioned.

WHEREAS the exclusive right of trading with the dominions of the emperor of China, and of trading in tea now enjoyed by the united company of merchants of England trading to the East Indies, will cease from and after the twenty-second day of April, one thousand eight hundred and thirty-four: (1) And whereas it is expedient that the trade with China, and the trade in tea, should be open to all his Majesty's subjects, and that the restrictions imposed on the trade of his Majesty's subjects with places beyond the Cape of Good Hope to the Straights of Magellan, for the purpose of protecting the exclusive rights of trade heretofore enjoyed by the said company, should be removed: Be it therefore enacted, &c., That from and after the said twenty-second day of April, one thousand eight hundred and thirty-four an act passed in the fourth year of the reign of his late Majesty king George the fourth, intituled *An Act to consolidate and amend the several Laws now in force with respect to Trade from and to Places within the Limits of the Charter of the East India Company, and to make further Provisions with respect to such Trade, and to amend an Act of the present Session of Parliament, for the registering of Vessels, so far as it relates to Vessels registered in India*, shall be repealed, except such parts thereof as relate to Asiatic sailors, Lascars, being natives of the territories under the government of the East India company, but so as not to revive any acts or parts of acts by the said act repealed; and except also as to such voyages and adventures as shall have been actually commenced under the authority of the said act; and except as to any suits and proceedings which may have been commenced, and shall be depending on the said twenty-second day of April, one thousand eight hundred and thirty-four; and from and after the said twenty-second day of April one thousand eight hundred and thirty-four the enactments herein-after contained shall come into operation.

Repeal of prohibitions upon the importation of tea and goods from China, imposed by 6 G. 4, c. 107, and 6 G. 4, c. 114.

II. That so much of an act passed in the sixth year of the reign of his late Majesty king George the fourth, intituled *An Act for the general Regulation of the Customs*, as prohibits the importation of tea, unless from the place of its growth, and by the East India company, and into the port of London; and also so much of the said act as prohibits the importation into the united kingdom of goods from China, unless by the East India company, and into the port of London; and also so much of the said act as requires that the manifests of ships departing from places in China shall be authenticated by the chief supercargo of the East India company; and also that so much of another act passed in the said sixth year of the reign of his said late Majesty king George the fourth, intituled *An Act to regulate the Trade of the British Possessions Abroad*, as prohibits the importation of tea into any of the British possessions in America, and into the island of Mauritius, except from the united kingdom, or from some other British possessions in America, and unless by the East India company or with their licence, shall be, from and after the twenty-second day of April one thousand eight hundred and thirty-four, repealed; and thenceforth (notwithstanding any provision, enactment, matter, or thing made for the purpose of protecting the exclusive rights of trade heretofore enjoyed by the said company, in any charter of the said company, in the said act or any other act of parliament contained,) it shall be lawful for any of his Majesty's subjects to carry on trade with any countries beyond the Cape of Good Hope to the Straights of Magellan.

All British subjects may carry on trade beyond the Cape of Good Hope to Straights of Magellan.

(1) By the 3 & 4 W. 4, c. 85, the British territories are to remain under the government of the East India Company until the 30th April, 1854, and during that time their trading is to be suspended. The act will be found in a subsequent part of this supplement.

III. Provided always, That the person having the command of any ship or vessel arriving at any place in the possession of or under the government of the said company shall make out, sign, and deliver to the principal officer of the customs, or other person thereunto lawfully authorized, a true and perfect list, specifying the names, capacities, and description of all persons who shall have been on board such ship or vessel at the time of its arrival; and if any person having the command of such ship or vessel shall not make out, sign, and deliver such list, he shall forfeit one hundred pounds, one half part of which penalty shall belong to such person or persons as shall inform or sue for the same, and the other half part to the said company; and if the said company shall inform or sue for the same, then the whole of the said penalty shall belong to the said company.

No. XI.
3 & 4 W. 4,
c. 93.

List of persons on board any ship arriving in India to be delivered to officers of customs. Penalty for neglect, 100*l*.

IV. That the penalty or forfeiture aforesaid shall be recoverable by action of debt, bill, plaint, or information in any of his Majesty's courts of record in the united kingdom of Great Britain and Ireland, and in India or elsewhere, or in any courts in India to which jurisdiction may hereafter be given by the governor-general of India in council in that behalf, to be commenced in the county, presidency, colony, or settlement where the offender may happen to be; or by conviction in a summary way before two justices of the peace in the united kingdom, or in India, of the county or presidency where such offender may happen to be; and upon such conviction the penalty or forfeiture aforesaid shall and may be levied by distress and sale of the goods and chattels of the offender; and for want of such sufficient distress every such offender may be committed to the common gaol or house of correction for the space of three calendar months.

Penalties how recoverable.

V. And whereas it is expedient for the objects of trade and amicable intercourse with the dominions of the emperor of China that provision be made for the establishment of a British authority in the said dominions; be it therefore enacted, That it shall and may be lawful for his Majesty, by any commission or commissions or warrant or warrants under his royal sign manual, to appoint not exceeding three of his Majesty's subjects to be superintendents of the trade of his Majesty's subjects to and from the said dominions for the purpose of protecting and promoting such trade, and by any such commission or warrant as aforesaid to settle such gradation and subordination among the said superintendents (one of whom shall be styled the chief superintendent), and to appoint such officers to assist them in the execution of their duties, and to grant such salaries to such superintendents and officers as his Majesty shall from time to time deem expedient.

Three superintendents of the China trade to be appointed.

VI. That it shall and may be lawful for his Majesty, by any such order or orders, commission or commissions, as to his Majesty in council shall appear expedient and salutary, to give to the said superintendents, or any of them, powers and authorities over and in respect of the trade and commerce of his Majesty's subjects within any part of the said dominions; and to make and issue directions and regulations touching the said trade and commerce, and for the government of his Majesty's subjects within the said dominions; and to impose penalties, forfeitures, or imprisonments for the breach of any such directions or regulations, to be enforced in such manner as in the said order or orders shall be specified; and to create a court of justice with criminal and admiralty jurisdiction for the trial of offences committed by his Majesty's subjects within the said dominions, and the ports and havens thereof, and on the high seas within one hundred miles of the coast of China; and to appoint one of the superintendents herein-before mentioned to be the officer to hold such court, and other officers for executing the process thereof; and to grant such salaries to such officers as to his Majesty in council shall appear reasonable.

His Majesty in council may issue orders and commissions to have force in China;

and issue regulations touching the trade;

and create a court of justice for trial of offences in that part.

VII. That no superintendent or commissioner appointed under the authority of this act shall accept for or in discharge of his duties any gift, donation, gratuity, or reward, other than the salary which may

Superintendents, &c. not to accept gift, or to trade.

No. XIII.
3 & 4 W. 4,
c. 93.

A tonnage duty to be imposed, to be appropriated towards defraying the expence of establishments in China.

be granted to him as aforesaid, or be engaged in any trade or traffic for his own benefit, or for the benefit of any other person or persons.

VIII. That it shall be lawful for his Majesty, by and with the advice of his privy council, by any order or orders to be issued from time to time, to impose, and to empower such persons as his Majesty in council shall think fit to collect and levy from or on account of any ship or vessel belonging to any of the subjects of his Majesty entering any port or place where the said superintendents or any of them shall be stationed, such duty on tonnage and goods as shall from time to time be specified in such order or orders not exceeding in respect of tonnage the sum of five shillings for every ton, and not exceeding in respect of goods the sum of ten shillings for every one hundred pounds of the value of the same, the fund arising from the collection of which duties shall be appropriated, in such manner as his Majesty in council shall direct, towards defraying the expences of the establishments by this act authorized within the said dominions: Provided always, That every order in council issued by authority of this act shall be published in the *London Gazette*; and that every such order in council, and the amount of expence incurred, and of duties raised under this act, shall be annually laid before both houses of parliament.

Limitation of actions.

IX. That if any suit or action shall be brought against any person or persons for any thing done in pursuance of this act, then and in every such case such action or suit shall be commenced or prosecuted within six months after the fact committed, and not afterwards, except where the cause of action shall have arisen in any place not within the jurisdiction of any of his Majesty's courts having civil jurisdiction, and then within six months after the plaintiff or plaintiffs and defendant or defendants shall have been within the jurisdiction of any such court; and the same and every such action or suit shall be brought in the county or place where the cause of action shall have arisen, and not elsewhere, except where the cause of action shall have arisen in any place not within the jurisdiction of any of his Majesty's courts having civil jurisdiction; and the defendant or defendants shall be entitled to the like notice, and shall have the like privilege of tendering amends to the plaintiff or plaintiffs, or their agent or attorney, as is provided in actions brought against any justice of the peace for acts done in the execution of his office by an act passed in the twenty-fourth year of the reign of king George the second, intituled *An Act for the rendering Justices of the Peace more safe in the Execution of their Office, and for indemnifying Constables and others acting in obedience to their warrants*; and the defendant or defendants in every such action or suit may plead the general issue, and give the special matter in evidence; and if the matter or thing complained of shall appear to have been done under the authority and in execution of this act, or if any such action or suit shall be brought after the time limited for bringing the same, or be brought and laid in any other county or place than the same ought to have been brought or laid in as aforesaid, then the jury shall find for the defendant or defendants; and if the plaintiff or plaintiffs shall become nonsuit, or discontinue any action after the defendant or defendants shall have appeared, or if a verdict shall pass against the plaintiff or plaintiffs, or if upon demurrer judgement shall be taken against the plaintiff or plaintiffs, the defendant or defendants shall and may recover treble costs, and have the like remedy for recovery thereof as any defendant or defendants hath or have in any cases of law.

24 G. 2, c. 44.

General issue.

If action brought after time limited, &c.

Treble costs.

[No. XXII.] 4 & 5 W. IV. c. 13.—An Act to repeal so much of an Act of the last Session of Parliament for the Prevention of Smuggling as authorizes Magistrates to sentence Persons convicted of certain Offences to serve His Majesty in His Naval Service, and to alter and amend the said Act. [22nd May 1834.]

[No. XXIII.] 4 & 5 W. IV. c. 32.—An Act for reducing the Tonnage Rates payable in the Port of London. [25th July 1834.]

[No. XXIV.] 4 & 5 W. IV. c. 34.—An Act to repeal the Laws relating to the Contribution out of Merchant Seamen's Wages towards the Support of the Royal Naval Hospital at Greenwich, and for supplying other Funds in lieu thereof. [25th July 1834.]

WHEREAS by an act of the seventh and eighth years of the reign of king William the third, for the increase and encouragement of seamen, it was amongst other things enacted, that every seamen who should serve his Majesty, his heirs and successors, or any other person in any of his Majesty's ships, or in any ship or vessel belonging to the subjects of England or any other his Majesty's dominions, should allow and there should be paid out of the wages of every such seaman to grow due sixpence per month, for the better support of the royal hospital for seamen at Greenwich, which allowance and abatement were by an act passed in the tenth year of the reign of queen Anne extended to the wages of every seaman and other person employed in any ship or vessel belonging to the subjects of Great Britain and Ireland, and the dominions thereto belonging; and the said allowance was, by another act passed in the second year of the reign of king George the second, further extended to the wages of seamen belonging to the ships and vessels of the islands of Guernsey, Jersey, Alderney, Sark, and Man, and of his Majesty's colonies in America: And whereas by an act passed in the tenth year of the reign of his late Majesty king George the fourth, for transferring the management of Greenwich out-pensions and certain duties in matters of prize to the treasurer of the navy, it is enacted, that such allowance out of the wages of all seamen serving his Majesty or employed in any of his Majesty's ships should cease to be payable: And whereas by an act passed in the second year of the reign of his present Majesty, for amending the laws relating to the civil departments of the navy, it is declared that the said allowance shall be abated out of the wages of every person serving in any ship or vessel (not being in commission and in the pay of the royal navy) which shall belong to or be employed in the service of his Majesty in the several departments of the public service: And whereas it is expedient that the allowance or contribution of sixpence per month out of the wages of all seamen whatever, as well those employed in the ships or vessels in the service of his Majesty as in the merchant shipping of the united kingdom, and of the dominions, islands, and territories thereto belonging, should no longer be made towards the support of the said hospital, and that in lieu thereof other funds should be provided for that purpose: Be it therefore enacted, &c., That from and after the thirty-first day of December one thousand eight hundred and thirty-four the said recited act of the seventh and eighth years of the reign of king William the third, for the increase and encouragement of seamen; and also so much as remains unpealed of an act of the eighth and ninth years of the

Repeal of 7 &
8 W. 3, c. 21.

8 & 9 W. 3,
c. 23.

- No. XXIV. reign of king William the third, made to enforce the said act for the increase and encouragement of seamen; and also an act passed in the tenth year of the reign of queen Anne, for the better collecting and recovering of duties granted for the support of the royal hospital at Greenwich, and for the further benefit thereof: and also so much of an act passed in the eighth year of the reign of his Majesty king George the first, for the more effectual suppression of piracy, as relates to the admission of merchant seamen into Greenwich hospital; and also an act passed in the second year of the reign of king George the second, for the more effectual collecting, in Great Britain and Ireland, and other parts of his Majesty's dominions, the duties granted for the support of the said royal hospital; and also so much of an act passed in the eighth year of the reign of king George the second, for the application of the rents and profits of the estates forfeited by the attainders of James earl of Derwent-water and Charles Radcliffe, as relates to the admission of merchant seamen into the said hospital; and also an act passed in the eighteenth year of the reign of king George the second, for the more effectually recovering and collecting of the duties granted towards the support of Greenwich hospital, and for other purposes; and also so much of an act passed in the second year of the reign of king George the third, for making perpetual an act for the better regulation and government of seamen in the merchant service, and for extending the provisions thereof to his Majesty's colonies in America, as relates to the payment, recovery, and application of all penalties and forfeitures incurred under an act passed in the second year of the reign of king George the second, for the better regulation and government of seamen in the merchant service; and also so much of the said act passed in the second year of the reign of his present Majesty as enacts that the said abatement shall be made out of the wages of persons serving in any ship or vessel belonging to or employed in the service of his Majesty in the several public departments, shall be and the same are hereby repealed; save and except as to all matters and things required to be done, and all abatements and payments to be made, for any period previous to the first day of January one thousand eight hundred and thirty-five, in pursuance of any of the said acts and parts of acts hereby repealed; and also save and except as to all penalties and forfeitures already incurred or which shall or may be incurred under any of the provisions of the said acts.
- 4 & 5 W. 4, c. 34.
 10 Anne, c. 17.
 8 G. 1, c. 24, s. 5.
 2 G. 2, c. 7.
 8 G. 2, c. 29, s. 10.
 18 G. 2, c. 31.
 2 G. 3, c. 31, s. 2.
 2 W. 4, c. 40, s. 23.
- except as to matters required to be done previous to 1st Jan. 1835, and to penalties incurred.

An annual sum of 20,000*l.* to be charged on the consolidated fund.

II. And whereas the sum available towards the support of the said royal hospital from the sources provided by the said repealed acts hath upon an average amounted annually to the sum of twenty-two thousand pounds or thereabouts: And whereas the revenues of the said hospital will by such repeal be so greatly diminished as to render them wholly inadequate to the maintenance of its establishment, and it is highly becoming the honour and character of the British nation that those seamen and marines who have been or shall hereafter be maimed, wounded, disabled, or worn out in its service on board any of the ships of war of his Majesty, or in the naval service of the country, should be supported according to the original design of the foundation of the said hospital, and that they should not be left destitute, and it is consequently necessary that other permanent funds should be provided for its maintenance; be it therefore further enacted, That from and after the thirty-first day of December one thousand eight hundred and thirty-four there shall be annually charged upon and payable out of the consolidated fund of the united kingdom of Great Britain and Ireland the sum of twenty thousand pounds, which sum shall be paid to the commissioners of the said royal hospital at Greenwich by equal half-yearly payments on the fifth day of January and the fifth day of July in each year, to be by the said commissioners applied towards the maintenance of the said establishment; the first of which half-yearly payments shall be made on the fifth day of July one thousand eight hundred and thirty-five.

III. That it shall be lawful for the lord high treasurer or the commissioners of the treasury of the united kingdom of Great Britain and Ireland for the time being, or any three or more of them, and they are hereby required, by warrant under their hands, to direct a debenture to be made forth and passed by the proper officers at the receipt of his Majesty's exchequer, from time to time, for paying the said sum in manner as aforesaid, as the same shall from time to time become due and payable, according to the true intent and meaning of this act; which said warrant, and debenture to be made forth and passed thereon, respectively, shall be sufficient authority to the several and respective officers of the receipt of the exchequer, now and for the time being, for the payment of such sum at the respective days to be appointed for such payments; without any further or other warrant to be sued for, had, or obtained in that behalf.

No. XXIV.
4 & 5 W. 4,
c. 34.

The treasury to direct debentures to be made out for the payment of the said sum.

[No. XXV.] 3 & 4 W. IV. c. 51.—An Act to amend the laws relating to the Collection and Management of the Revenue of Excise.
[13th August 1834.]

[No. XXVI.] 4 & 5 W. 4, c. 52.—An Act to amend an Act of the Twentieth Year of His Majesty King George the Second, for the Relief and Support of sick, maimed, and disabled Seamen, and the Widows and Children of such as shall be killed, slain, or drowned in the Merchant Service; and for other Purposes.
[13th August 1834.]

WHEREAS by an act passed in the twentieth year of his Majesty king George the second, intituled *An Act for the Relief and Support of maimed and disabled Seamen, and the Widows and Children of such as shall be killed, slain, or drowned in the Merchants Service*, a body corporate and politic was created by the name of "The President and Governors for the Relief and Support of sick, maimed, and disabled Seamen, and of the Widows and Children of such as shall be killed, slain, or drowned in the Merchants Service," and divers powers and privileges were thereby granted to the said corporation, and regulations made for the management thereof; and various provisions were by the said act made for the relief and support of maimed and disabled seamen, and the widows and children of such as shall be killed, slain, or drowned as aforesaid: and whereas another act was passed in the thirty-seventh year of the reign of his Majesty king George the third, intituled *An Act for preventing the Desertion of Seamen from British Merchant Ships trading to His Majesty's Colonies and Plantations Abroad*: and whereas it is expedient to repeal some, and to extend and comprise in one act of parliament others of the provisions of the said two recited acts: Be it therefore enacted by the king's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, That from and after the thirty-first day of December one thousand eight hundred and thirty-four, from which day (except as herein-after is expressly provided) this act shall commence and take effect, the whole of the said recited act of the twentieth year of the reign of his said late Majesty king George the second, except so far as the same relates to the incorporation and perpetual succession of the said body corporate and politic, or to the powers and authorities thereby vested in the said president and governors for receiving, possessing, and applying such sums of money as should be contributed, devised, or bequeathed to it, and for purchasing and holding lands and erecting an hospital, or to

20 G. 2, c. 38.

37 G. 3, c. 73.
Repeal of certain parts of recited acts.

No. XXVI.
4 & 5 W. 4,
c. 52.

Proviso as to
offences com-
mitted or penal-
ties incurred.

President and
governors em-
powered to
relieve disabled
seamen and
their widows
and children.

Seamen to pro-
duce certificate
of the hurt they
have received.

Parties signing
the certificate
to make oath
of the truth
eof.

the rules and method thereby provided for supplying the places of the president and assistants or committees and governors or members thereof so often as vacancies shall occur, and making and altering the bye laws, constitutions, and ordinances of the said corporation; and so much of the said recited act of the thirty-seventh year of the reign of his said late Majesty king George the third as relates to the payment and appropriation to and for the uses and purposes therein mentioned of the wages of deceased seamen and other persons engaged in British merchant ships trading to the West Indies, and to the penalties and forfeitures thereby imposed, so far as the same are payable or recoverable on account of any infraction of the provisions of the said act respecting the payment and appropriation of such wages as aforesaid; be and the same are hereby declared to be repealed; Provided always, That all offences which shall have been committed, and all penalties and forfeitures which shall have been incurred, and all payments and duties to which any party shall have become liable, previous to the commencement of this act, against the provisions of the said acts, shall and may be punishable and recoverable under the said acts as if the same had not been repealed, although such payments and duties shall not in consequence of such liability have become actually receivable by the said president and governors until after the said thirty-first day of December.

II. That the said president and governors and their successors shall and may and they are hereby authorized and empowered to provide, in such their hospital as aforesaid, for the reception of such seamen as shall be rendered incapable of present or future service by sickness, wounds, or other accidental misfortunes, and those who shall become decrepit or worn out by age, or shall provide for such seamen by allowing them certain pensions, or otherwise as to the said president and governors and their successors shall seem meet and most for the advantage of the said charity; and also to relieve the widows and children of such seamen as shall be killed, slain, or drowned in the said service; and also to relieve the widows and children of such seamen as shall die after having contributed during a term of twenty-one years to the funds of this corporation, provided such children are not of the age of fourteen years, or if of that age or upwards, not capable of getting a livelihood by reason of lameness, blindness, or other infirmities, and are proper objects of charity; and also to relieve the widows and children (such children being proper objects of charity as aforesaid) of such seamen as at the time of their death shall have been receiving or have been entitled to receive pensions, under and by virtue of this act, from the fund hereby to be created, as decrepit or worn-out seamen: Provided that no widow shall be entitled to any benefit under this act who shall not have been the wife of such seaman or pensioner before he became entitled to relief under the provisions of this act: Provided nevertheless, That no seaman in the said service shall be entitled to any of the provisions or benefits of this act, on account of any hurt or damage he may have received on board any ship or vessel, unless he shall produce or cause to be produced a certificate to the said president, assistants, and committees, of the hurt or damage he hath received, from the master, mate, boatswain, and surgeon, or so many of them as were in the ship or vessel to which such seaman belonged at the time of his receiving such hurt or damage, or of the master and two of the seamen if there be no other officer, or in case the master shall die, or be killed or drowned, then of the person who shall take upon him the care of the ship or vessel, and two of the seamen on board the same, under their hands and seals, thereby signifying how and in what manner such seaman received such hurt or damage, whether in fighting, defending, working, loading, or unloading the said ship or vessel, where and when he entered, and how long he had served on board the same; and the parties so signing and sealing such certificate shall and are hereby required to make oath of the truth of the contents thereof before some one of his Majesty's

justices of the peace, if given in Great Britain or Ireland or other his Majesty's dominions, or the chief officer of the customs of the port or place where there is no justice of the peace, or before the British consul or resident in any foreign country where such certificate is executed (who are hereby respectively authorized and required to administer the same without fee or reward); and in case of sickness, whereby such seaman shall be rendered incapable of service, a certificate signed, sealed, and authenticated in like manner, signifying that he was healthy when he entered on board such ship or vessel, and that such sickness was contracted on board the same, or on shore in doing his duty in the service of the ship, and not otherwise, and expressing the time and place he entered on board such ship or vessel, and how long he had served therein; and that no widow, child, or children of any seaman killed, slain, or drowned in the said service, shall be relieved or entitled to any allowance by virtue of this act unless she or they, or some person on her or their behalf, shall produce a certificate, signed, sealed, and authenticated in like manner, signifying how and in what manner such seaman lost his life in the service of the said ship or vessel, the time and place he entered on board, and how long he had served therein; and that no widow, child, or children of any seamen in the said service shall be entitled to any relief by virtue of this act unless she or they shall produce or cause to be produced a certificate under the hands and seals of the minister and churchwardens and overseers of the poor of the parish, township, or place, or any two of them, or under the hands and seals of the minister and overseers of the poor of the parish, township, or place, or any two of them, where there are no churchwardens, or if in Scotland by the minister and elders, or if in Ireland by a justice of the peace for the parish, township, or place where such widow, child, or children shall at the time reside, and if such widow, child, or children are some of the people called Quakers, then by any two reputable persons of that persuasion of the parish, township, or place where such widow, child, or children have a legal settlement, or do inhabit and reside, to be attested by two or more credible witnesses, that such widow was the lawful wife and real widow, and that such child or children was or were the lawful child or children of such deceased seaman as aforesaid, and that such child or children is and are under the age of fourteen years, or if of that age or upwards, not capable of getting a livelihood by reason of lameness, blindness, or other infirmities, and is or are proper objects of charity; and that no seaman shall be provided for by a pension or otherwise, as decrepit or worn out, unless such seaman shall have served in the merchant service for the space of five years, and shall have during that time contributed and paid the monthly duty out of his wages, in and by the act of the twentieth year of the reign of king George the second herein-before recited, or in and by this act, required to be henceforward paid and deducted as the case may happen, for the uses and purposes in and by this act provided.

III. Provided always, That if any person shall forge, counterfeit, erase, or alter, or shall procure to be forged, counterfeited, erased, or altered, or shall unfairly or unduly obtain, any certificate in order to entitle him or her to any of the pensions, allowances, or benefits of this act, and shall produce or cause such certificate to be produced for that purpose, such certificate shall, upon discovery thereof, be null and void, and such person so applying for relief or provision shall be for ever incapable of receiving any of the benefits of this act, and shall be subject and liable to the like punishment as an incorrigible rogue is subject and liable to, and shall be punished accordingly as such.

IV. That the said president, with any five or more of the said assistants or committees for the time being, shall make a full court of assistants or committees, and shall meet from time to time upon Wednesdays weekly in or near the city of London, or at such other time or place as they shall think fit to appoint; and such court shall have power, when assembled as aforesaid, in the name of the said corpo-

No. XXVI.
4 & 5 W. 4,
c. 52.

Certificates to be produced by seamen disabled by sickness, and by widows and children of seamen.

Decrepit seamen not entitled to the benefit of this act unless they have served five years, and contributed monthly.

Persons forging, &c. certificates to be punished.

President and five assistants to make a court, who are to meet weekly. The court may apply the

No. XXVI.
4 & 5 W. 4,
c. 52.

...
nies of the cor-
poration, and
appoint the
officers and
their salaries ;

Exception ;

and do all
other matters
and things
necessary.

All masters
and owners of
merchant ships
or vessels, &c.
to pay 2s. per
month.

All seamen
or other per-
sons serving on
board such
ships or vessels
to pay 1s. per
month.

ration and on their account, to apply the monies arising and to be received by virtue of this act, or otherwise belonging to and vested in the said corporation, for the relief and support of such seamen, their widows and children, as are herein-before described, and in case there shall be any surplus thereof, or any sum or sums of money shall be contributed and given for the purpose of this act by any well-disposed persons, to lay out the same in parliamentary securities, or to dispose of the same in the purchase of such lands, tenements, or hereditaments as are allowed to be purchased and held by the said corporation by the said recited act of the twentieth year of the reign of his said late Majesty George the second, and with and under their common seal to enter into any covenants or contracts for the purposes aforesaid, as they shall think fit for the better promoting and carrying into effect the provisions of this act ; and to appoint and choose, and at their pleasure to remove, displace, and supply, any officers, servants, and other person and persons to be employed for the purposes herein mentioned and intended, or other the affairs of the said corporation (other than and except such officers and persons as by the said act of the twentieth year of the reign of his said late Majesty king George the second are directed to be chosen and appointed at a general court or assembly of the said corporation), and to direct and appoint such salaries, perquisites, and other rewards for their labour and service therein as they shall approve and think proper, and to do, manage, transact, and determine all such matters and things as to them or the greater part of them shall appear necessary and convenient for the effecting and carrying on the purposes hereby intended.

V. For effecting the ends and purposes aforesaid, That every master of any merchant ship or vessel belonging or to belong to any of the subjects of his Majesty, his heirs or successors, and every owner being a British subject navigating or working his own ship or vessel, whether the said ship or vessel shall be employed on the high sea, or coasts of Great Britain or Ireland, or in any port, bay, or creek of the same, shall, from and after the thirty-first day of December one thousand eight hundred and thirty-four, pay, and there shall be allowed and paid by every such master or owner, two shillings per month of lawful money of Great Britain, and proportionably for a lesser time, during the time he or they shall be employed in or navigate or work such merchant ship or vessel, for the uses and purposes aforesaid : Provided always, That such masters or owners of such ships or vessels, or their widows and children under fourteen years of age, or being objects of charity as aforesaid, shall have and be entitled to have a proportionate increase of the pension or other allowance, as in and by this act is provided, according to the difference between the amount of the monthly duty hereby required to be paid by other seamen, mariners, and pilots, in case such master or owner shall have paid the said sum of two shillings per month for a period of five years or sixty months before any application to the said president and governors for relief under this act or the provisions thereof, or any of them ; but in case any such master or owner shall be killed or drowned, or become decrepit and maimed or disabled, before he or they shall have paid such increased rate of two shillings per month for the full period of five years or sixty months as aforesaid, then such masters or owners, or their widows and children, shall have and be entitled to have and receive such smaller pension or allowance as the said president and governors, or the trustees to be appointed as herein-after mentioned shall think fit.

VI. That every seaman or other person whatsoever who shall serve or be employed by any person or persons whatsoever in any merchant ship, or other private ship or vessel, belonging or to belong to any of the subjects of his Majesty, his heirs or successors, whether the said ship or vessel shall be employed on the high sea or coasts of Great Britain or Ireland, or in any port, bay, or creek of the same, and every pilot employed on board any such ship or vessel, shall, from and after

the thirty-first day of December one thousand eight hundred and thirty-four, pay, and there shall be allowed and paid by every such seaman, pilot, or other person employed or that shall be employed, one shilling per month of lawful money of Great Britain, and proportionably for a lesser time, during the time he or they shall be employed in or belong to the said ship or vessel, for the uses and purposes aforesaid: Provided always, That this act shall not extend or be construed to extend to any person or persons who shall be employed in any boat upon any of the coasts of Great Britain and Ireland, or the islands of Guernsey, Jersey, Alderney, Sark, and Man, in taking fish, nor to any person or persons employed in boats or vessels that trade only from place to place within any river of Great Britain or Ireland.

VII. That the master, owner, or commander of every such merchant or private ship or vessel is hereby empowered and required to deduct and detain out of the wages, shares, or other profits payable or accruing to such seaman or other person employed on board such ship or vessel (other than such persons as are hereby excepted), the said monthly duty, and shall pay the same, together with the amount of the duty due and owing from himself, to such officer or officers as shall on that behalf be appointed by the said president and governors, or the trustees to be appointed at any of the out-ports in manner herein-after provided, and their successors, for the collecting, recovering, and receiving the said duty of one shilling per month, if such seaman or other person shall have or be entitled to any such wages, shares, or profits.

VIII. That it shall and may be lawful for the said president and governors, and their successors, at a full court of assistants or committees, to appoint such person or persons as they shall think fit to be receiver or receivers of the said duties of two shillings and one shilling per month at the port of London, and also depute and appoint the collectors or other officers of the customs of his Majesty, his heirs and successors, in the several out-ports of Great Britain and Ireland, with the concurrence of the commissioners of the said customs, or such other persons as they shall think fit, to collect and receive the same (except in such out-ports and where separate trustees shall have been appointed by virtue of this act); which said receivers, as also the collectors and officers of the customs, are hereby empowered and required to collect, receive, and pay over the said duties according to such instructions and directions as shall be from time to time sent to them in writing by the said president and governors and their successors; and for the care and pains therein of the said collectors and other officers of the customs to be appointed to collect, recover, and receive the said duty, it shall and may be lawful for the said president and governors and their successors, at such court of assistants or committees as aforesaid, to make such allowance to them out of the said duties as they shall judge reasonable, so that the same do not exceed the sum of five pounds per centum on the gross amount thereof.

IX. That every master, commander, or owner of any merchant ship or other private ship or vessel navigating the same, or such other person as shall have the care thereof, shall keep a book by way of muster roll or account of the ship's company, signed by himself, in which shall be entered his own christian and surname, and the christian and surnames of all the officers, seamen, and other persons employed in such ship or vessel, and over against each name the age, place of birth, and quality of such seaman or other person, and the time and place when he entered into the service of such ship or vessel; and such master, commander, or owner, or other person having the care of such ship or vessel shall continue to keep such book by way of muster roll during the whole course of the voyage, and shall from time to time enter therein when and where any such master, officer, seaman, or other person shall be discharged from or shall leave or desert such ship or vessel, and when and where any other officers and men shall be shipped on board, describing them in like manner as the persons who first en-

No. XXVI.
4 & 5 W. 4,
c. 52.

Masters of ships to keep in their hands 1s. per month out of seamen's pay, and pay over the same to the receiver of the duties.

Receivers to be appointed for the port of London and the outports, who are to collect and pay over the duties according to instructions.

Masters to keep muster roll, and deliver duplicates thereof to the collectors.

No. XXVI.
4 & 5 W, 4,
c. 52.

Receivers to
transmit dupli-
cates of vessels
not belonging
to their port.

Penalty for
neglect by
masters, &c.

Masters of ves-
sels to deduct
penalties from
wages of sea-
men, and de-
liver a verified
account thereof
to officers of
president and
governors, un-
der penalty of
20l.

Collectors may
summon mas-
ters of vessels,
and examine
them upon oath
as to the truth
of the muster
rolls.

Masters re-
fusing to appear
or to answer,
forfeit 10l.

tered on board are directed to be described, and when and where any of them received any hurt or damage, or were killed, slain, or drowned, or otherwise happened to die, in case there should be any such, together with a statement of the amount of wages due to them at the time of death or desertion, and of what clothes or other effects such deceased man shall have left on board; which said account shall be in the form, and shall contain a true and correct return under their respective heads of the several particulars expressed in the schedule marked (A.) and to this act annexed; a duplicate of which account shall, if required, be signed by the said master, commander, or other person having the care of the ship or vessel as aforesaid, and shall be delivered to the collectors or receivers of the said duties so appointed as aforesaid, at whatever port in Great Britain or Ireland any such ship or vessel shall report or discharge her cargo; and every such duplicates for vessels not belonging to such port of discharge shall be forwarded by such receiver to the said president and governors, to be by them transmitted to the trustees of the port to which the vessel shall belong; and in case any such master, commander, or other person shall neglect to keep such muster roll or account, or shall neglect or refuse to deliver such duplicate as aforesaid, and in case such receiver or collectors shall neglect or refuse to transmit the duplicates which shall be delivered to them as aforesaid to the said president and governors, every such person so offending shall forfeit and pay for every such refusal or omission the sum of five pounds of lawful money of Great Britain.

X. That the master for the time being of every ship coming within the provisions of this act shall have authority to deduct out of the wages of the seamen thereof the amount of all forfeitures to be incurred by any such seamen, and every such master is hereby required correctly and truly to enter the same in a book to be by him kept for that purpose, which shall be signed by the master and the person next to him in the command of the ship, both of whom shall therein certify that it contains all the forfeitures which have been incurred by the seamen of the ship during the voyage, to the truth whereof the master shall make oath when required by the officer of the said president and governors in London, or of the trustees at any of the out-ports, if any, and if not, to the respective receivers or collectors of the said president and governors at such out-ports appointed to receive the monies payable in respect of the wages of merchant seamen, which oath such officer is hereby authorized to administer; and the said book, or a true copy thereof signed and certified as aforesaid, shall, within one calendar month after the ship's return from her voyage, be delivered to the said officer by the master, together with extracts from the log book of the entries therein of the causes of the several forfeitures which are hereinbefore required to be made; and every master as aforesaid who shall refuse or neglect to deliver any such account as hereby required shall forfeit and pay the sum of twenty pounds.

XI. That it shall and may be lawful to and for the said collectors or receivers, for the better discovery of what shall be due from the several persons serving on board or belonging to any merchant ship or other private ship or vessel aforesaid, by warrant under his or their hand or hands to summon every such master and commander, or in his absence such owner or owners of such ship or vessel as aforesaid, to be and appear at the office of the said collectors or receivers respectively (so that the persons so summoned be not obliged to travel above ten miles for the making such appearance), which said collectors or receivers are hereby empowered and directed to examine every such master and commander or owner or owners as to the truth of the copy of such book or muster roll, and as to the number and times of service of all the several persons belonging to or employed in such ship or vessel, who are liable to or chargeable with the said duty; and if such masters or commanders, or in their absence such owner or owners, or any of them, shall refuse or neglect when so summoned to appear before the said re-

spective persons hereby empowered to examine them in manner as aforesaid, or if they shall appear and obstinately refuse to make a full and true discovery of the matters aforesaid, then and in every such case all and every such offender or offenders for every such refusal shall forfeit the sum of ten pounds of lawful money of Great Britain.

No. XXVI.
4 & 5 W. 4,
c. 52.

XII. And for the more easy and effectual collection of the said duties of and from the masters, commanders, and owners of merchant's ships or other private ships or vessels that are or shall be hired or employed on monthly charter by the several departments of the navy, victualling, ordnance, customs, post office, or other public offices for or in the service of his Majesty, his heirs or successors; be it further enacted, That the secretaries, or chief clerks of the aforesaid offices or departments respectively shall once in every year, upon the first day of January in each year, or within twenty days next following at the farthest, upon application being made to them by the said president and governors for that purpose, give and deliver to the receiver or receivers of the said duties in the port of London a true and exact list or account of the number and names of all and every the ships or vessels that in the year preceding every such account shall have been hired or employed by the commissioners or other officers of every such office respectively for or in the service of his Majesty, his heirs or successors, and of all and every the ships and vessels which, at the time of delivering in such account, remain in the service of every such office or department respectively, and of all such as between every such account shall be discharged from such service, and of the names of the masters, commanders, and owners of all and every such ships and vessels respectively, and also of the numbers of seamen or other persons that shall from time to time be employed in every such ship or vessel; and that no treasurer, paymaster, or other officer of or belonging to any such public office or offices shall make out or pay any bill for the freight of any ship or vessel so hired or employed, or to be hired or employed, for or in the service of his Majesty, his heirs and successors, as aforesaid, or pay any wages to any master, commander, or other persons employed or that shall be employed in any such ship or vessel, until every such master, commander, or owner respectively shall and do produce and show unto such treasurer, paymaster, or other officer respectively an acquittance or certificate signed by the said receiver or receivers, or his or their deputy or deputies for the time being, whereby it shall appear that such master, commander, or owner hath duly and fully paid and discharged the said duties payable by virtue of this act, and that he is not more than three months in arrear for the same.

Secretaries,
&c. of public
offices to give
in a list of ships
employed in
their service.

Treasurers,
&c. of such
offices to pay
no wages or
freight to any
master, &c. un-
til he produce
an acquittance
signed by re-
ceiver of duties.

XIII. That all and every the masters, commanders, and owners of all merchant ships and other private ships and vessels whatsoever by this act made liable to the payment of the said duties of two shillings per month and one shilling per month, shall pay all such monies as shall from time to time be due from them and every of them respectively for or on account of the said duties to the collectors and receivers appointed in pursuance of this act or of the said act of the twentieth year of the reign of his said late Majesty king George the second, at whatever port in the said united kingdom of Great Britain or Ireland any such ship or vessel shall report or discharge her cargo, and before any such ship or vessel shall be cleared inwards by the officers of the customs of his Majesty, his heirs or successors, in any such port; and that no customer, collector, comptroller, receiver, surveyor, searcher, waiter, or other officer of the customs of his Majesty, his heirs or successors, shall at any time hereafter clear inwards any merchant ship or any private ship or vessel whatsoever by this act made liable to the payment of the said duties, or grant any warrant, or give or grant out any cockets, transire, returns, or discharges unto or for any ship or vessel whatsoever, or shall permit or suffer any such ship or vessel to go out of any of the ports before mentioned, until the said master, commander, or owner or owners of every such ship or vessel respectively

Duties to be
paid at the port
where any ship
or vessel shall
unload her
cargo.

No. XXVI.
4 & 5 W. 4,
c. 52.

Receivers to
transmit dupli-
cates of vessels
not belonging
to their port.

Penalty for
neglect by
masters, &c.

Masters of ves-
sels to deduct
penalties from
wages of sea-
men, and deli-
ver a verified
account thereof
to officers of
president and
governors, un-
der penalty of
20l.

Collectors may
summon mas-
ters of vessels,
and examine
them upon oath
as to the truth
of the muster
rolls.

Masters re-
fusing to appear
or to answer,
forfeit 10l.

tered on board are directed to be described, and when and where any of them received any hurt or damage, or were killed, slain, or drowned, or otherwise happened to die, in case there should be any such, together with a statement of the amount of wages due to them at the time of death or desertion, and of what clothes or other effects such deceased man shall have left on board; which said account shall be in the form, and shall contain a true and correct return under their respective heads of the several particulars expressed in the schedule marked (A.) and to this act annexed; a duplicate of which account shall, if required, be signed by the said master, commander, or other person having the care of the ship or vessel as aforesaid, and shall be delivered to the collectors or receivers of the said duties so appointed as aforesaid, at whatever port in Great Britain or Ireland any such ship or vessel shall report or discharge her cargo; and every such duplicates for vessels not belonging to such port of discharge shall be forwarded by such receiver to the said president and governors, to be by them transmitted to the trustees of the port to which the vessel shall belong; and in case any such master, commander, or other person shall neglect to keep such muster roll or account, or shall neglect or refuse to deliver such duplicate as aforesaid, and in case such receiver or collectors shall neglect or refuse to transmit the duplicates which shall be delivered to them as aforesaid to the said president and governors, every such person so offending shall forfeit and pay for every such refusal or omission the sum of five pounds of lawful money of Great Britain.

X. That the master for the time being of every ship coming within the provisions of this act shall have authority to deduct out of the wages of the seamen thereof the amount of all forfeitures to be incurred by any such seamen, and every such master is hereby required correctly and truly to enter the same in a book to be by him kept for that purpose, which shall be signed by the master and the person next to him in the command of the ship, both of whom shall therein certify that it contains all the forfeitures which have been incurred by the seamen of the ship during the voyage, to the truth whereof the master shall make oath when required by the officer of the said president and governors in London, or of the trustees at any of the out-ports, if any, and if not, to the respective receivers or collectors of the said president and governors at such out-ports appointed to receive the monies payable in respect of the wages of merchant seamen, which oath such officer is hereby authorized to administer; and the said book, or a true copy thereof signed and certified as aforesaid, shall, within one calendar month after the ship's return from her voyage, be delivered to the said officer by the master, together with extracts from the log book of the entries therein of the causes of the several forfeitures which are hereinbefore required to be made; and every master as aforesaid who shall refuse or neglect to deliver any such account as hereby required shall forfeit and pay the sum of twenty pounds.

XI. That it shall and may be lawful to and for the said collectors or receivers, for the better discovery of what shall be due from the several persons serving on board or belonging to any merchant ship or other private ship or vessel aforesaid, by warrant under his or their hand or hands to summon every such master and commander, or in his absence such owner or owners of such ship or vessel as aforesaid, to be and appear at the office of the said collectors or receivers respectively (so that the persons so summoned be not obliged to travel above ten miles for the making such appearance), which said collectors or receivers are hereby empowered and directed to examine every such master and commander or owner or owners as to the truth of the copy of such book or muster roll, and as to the number and times of service of all the several persons belonging to or employed in such ship or vessel, who are liable to or chargeable with the said duty; and if such masters or commanders, or in their absence such owner or owners, or any of them, shall refuse or neglect when so summoned to appear before the said re-

spective persons hereby empowered to examine them in manner as aforesaid, or if they shall appear and obstinately refuse to make a full and true discovery of the matters aforesaid, then and in every such case all and every such offender or offenders for every such refusal shall forfeit the sum of ten pounds of lawful money of Great Britain.

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c. 52.

XII. And for the more easy and effectual collection of the said duties of and from the masters, commanders, and owners of merchant's ships or other private ships or vessels that are or shall be hired or employed on monthly charter by the several departments of the navy, victualling, ordnance, customs, post office, or other public offices for or in the service of his Majesty, his heirs or successors; be it further enacted, That the secretaries, or chief clerks of the aforesaid offices or departments respectively shall once in every year, upon the first day of January in each year, or within twenty days next following at the farthest, upon application being made to them by the said president and governors for that purpose, give and deliver to the receiver or receivers of the said duties in the port of London a true and exact list or account of the number and names of all and every the ships or vessels that in the year preceding every such account shall have been hired or employed by the commissioners or other officers of every such office respectively for or in the service of his Majesty, his heirs or successors, and of all and every the ships and vessels which, at the time of delivering in such account, remain in the service of every such office or department respectively, and of all such as between every such account shall be discharged from such service, and of the names of the masters, commanders, and owners of all and every such ships and vessels respectively, and also of the numbers of seamen or other persons that shall from time to time be employed in every such ship or vessel; and that no treasurer, paymaster, or other officer of or belonging to any such public office or offices shall make out or pay any bill for the freight of any ship or vessel so hired or employed, or to be hired or employed, for or in the service of his Majesty, his heirs and successors, as aforesaid, or pay any wages to any master, commander, or other persons employed or that shall be employed in any such ship or vessel, until every such master, commander, or owner respectively shall and do produce and show unto such treasurer, paymaster, or other officer respectively an acquittance or certificate signed by the said receiver or receivers, or his or their deputy or deputies for the time being, whereby it shall appear that such master, commander, or owner hath duly and fully paid and discharged the said duties payable by virtue of this act, and that he is not more than three months in arrear for the same.

Secretaries,
&c. of public
offices to give
in a list of ships
employed in
their service.

Treasurers,
&c. of such
offices to pay
no wages or
freight to any
master, &c. un-
til he produce
an acquittance
signed by re-
ceiver of duties.

XIII. That all and every the masters, commanders, and owners of all merchant ships and other private ships and vessels whatsoever by this act made liable to the payment of the said duties of two shillings per month and one shilling per month, shall pay all such monies as shall from time to time be due from them and every of them respectively for or on account of the said duties to the collectors and receivers appointed in pursuance of this act or of the said act of the twentieth year of the reign of his said late Majesty king George the second, at whatever port in the said united kingdom of Great Britain or Ireland any such ship or vessel shall report or discharge her cargo, and before any such ship or vessel shall be cleared inwards by the officers of the customs of his Majesty, his heirs or successors, in any such port; and that no customer, collector, comptroller, receiver, surveyor, searcher, waiter, or other officer of the customs of his Majesty, his heirs or successors, shall at any time hereafter clear inwards any merchant ship or any private ship or vessel whatsoever by this act made liable to the payment of the said duties, or grant any warrant, or give or grant out any cockets, transire, returns, or discharges unto or for any ship or vessel whatsoever, or shall permit or suffer any such ship or vessel to go out of any of the ports before mentioned, until the said master, commander, or owner or owners of every such ship or vessel respectively

Duties to be
paid at the port
where any ship
or vessel shall
unload her
cargo.

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c. 52.

Master or owner may enter into agreement with trustees and collectors for half-yearly payments.

Certificate of such agreement.

Payment under such agreement to be enforced.

shall and do produce and show forth unto such officer or officers an acquittance or certificate, signed by the said receiver or receivers, collectors or collector of the said duties, whereby it shall appear that such master, commander, or owners have duly and fully paid the said duties, and are not more than three months in arrear for the same, or that they are exempt from the payment of the said duties by virtue of the exceptions herein contained; and that every master, commander, or owner of any such ship or vessel who shall refuse or neglect to pay the said duty or duties in manner and within the time herein-before limited and appointed for payment thereof, and also every customer, collector, comptroller, receiver, surveyor, searcher, waiter, and other officer of the customs who shall make default in any of the premises enjoined them respectively by this act, or shall in anywise act contrary to the directions herein-before mentioned, shall for every such refusal, neglect, default, or act, forfeit the sum of ten pounds of lawful money of Great Britain; and that the amount of such duties as shall be received in pursuance of this act, so far as the same shall be derived from the duty imposed upon the masters, commanders, or owners, and seamen, or in respect of the wages of the masters, commanders, or owners, and seamen, in such ships or vessels as shall not belong to the particular port at which such ships or vessels shall be reported or discharge their cargoes, shall be and the same is hereby required to be remitted by the collectors or receivers of the said duty at the port aforesaid to the receiver of the port of London, and that the same shall, when so received by him, be transmitted by him to the trustees (if any) of the several ports to which every such ship or vessel shall respectively belong: Provided always, That it shall and may be lawful for the master, commander, or owner of any merchant ship or private ship or vessel which shall belong to any of the out-ports at which trustees shall have been appointed for the purposes herein-after mentioned under the provisions of this act or by virtue of the said act of his late Majesty king George the second, to enter into an agreement in writing with the trustees and receiver or collector for such out-port, with the intent that the whole of the duties payable under this act on account of the said ship or vessel, and so often as the same shall be employed, may be paid to the said receiver or collector of the said out-ports by half-yearly payments; that is to say, within twenty-one days after the thirtieth day of June and thirty-first day of December respectively in every year; and that it shall and may be lawful for the masters or owners of any ship or vessel employed in the coasting trade, or only going from one port to another in any part of the coasts of Great Britain or Ireland, to enter into a similar agreement with the receiver or collector and the trustees of any of the ports to which such ship or vessel may belong; and that every such master, commander, or owner, having entered into any such agreement as aforesaid on account of any ship or vessel, shall not be required to make any payment on account of the said duties at any port at which the said ship or vessel shall report or discharge its cargo other than that to which it belongs, nor shall such master or owner be exposed to any of the penalties, nor the said ship or vessel be in any way delayed or impeded by the said officers of his Majesty's customs, or any other person, in consequence of such nonpayment at any other port than as aforesaid, provided such master or owner produces before the collector or receiver for the port at which such ship or vessel shall report or discharge her cargo a certificate of the agreement herein-before mentioned, to be signed by the collector or receiver for the port to which such ship or vessel belongs; and such half-yearly payments of the said duties shall be enforced in the same manner and under the same penalties as are herein-before provided for the general collection of the duties to be levied under the provisions of this act: Provided always, That a yearly statement of the sums so received and distributed at each such port be made and published in one of the county or other newspapers circulating in the district.

XIV. And to prevent unnecessary delays in clearing ships and vessels, be it further enacted, That in case the master, commander, or owner of any ship or vessel liable to the payment of the duties aforesaid, shall not produce such acquittance or certificate of payment, or of an agreement for such half-yearly payment to be made at the port to which such ship or vessel belongs, as is herein-before mentioned, to the tide surveyor when he shall come on board in order to clear such ship or vessel, the tide waiters on board such ship or vessel shall be continued until such acquittance or certificate is produced, at the expence of such master, commander, or owner, and not at the expence of the crown.

XV. That the penalties and forfeitures by this act provided to be paid by any master or owner of any such merchant ship or vessel shall be recoverable before any magistrate or justice of the peace of the port or place at which any such ship or vessel shall be reported or shall discharge her cargo as aforesaid; and that notice of any application for recovering any such penalty or penalties before such magistrate or justice of the peace which shall have been served on the owner, master, or commander, broker or agent of any such ship or vessel, shall be deemed sufficient notice.

XVI. And whereas the masters, commanders, and other officers and seamen employed in ships or vessels belonging to persons residing at some of the out-ports of Great Britain or Ireland may be desirous of having the said several duties of two shillings *per mensem* and one shilling *per mensem* to be allowed and paid by them out of their wages as aforesaid, placed under the direction and management of persons residing in or near to such out-ports respectively; be it therefore enacted, That from and after the first day of October one thousand eight hundred and thirty-four, and without being compelled to wait until this act for the other general purposes herein mentioned is to commence and take effect as is aforesaid, it shall and may be lawful to and for the owners of and the masters and commanders employed on board the ships and vessels belonging to persons residing at any of the said out-ports to assemble and meet at any proper time and place within the limits of the said out-ports that shall be by any five or more of them appointed by giving ten days' previous notice, to be fixed at the custom house, wharf, quay, or any other public place at such respective out-port; and such owners, masters, and commanders, or the greater part of them, being so assembled as aforesaid, are hereby authorized and empowered from time to time to nominate and appoint, by an instrument in writing under their hands and seals, fifteen persons to be trustees for such out-port, for receiving, collecting, and applying the said duties of two shillings *per mensem* and one shilling *per mensem*, to be allowed, collected, and received, by virtue of this act, at such respective out-port, for relief and support of the seamen employed on board the ships or vessels belonging to such persons respectively, and their widows and children, as shall be entitled thereto by virtue of this act; which said trustees shall continue to act until the twenty-sixth day of December one thousand eight hundred and thirty-five, and until new trustees are nominated, appointed, and confirmed; and that within ten days after the twenty-sixth day of December in each succeeding year, the owners, masters, and commanders at such respective out-ports shall have power to meet and choose fifteen persons to be trustees for the year ensuing, by an instrument in writing under the hands and seals of the owners, masters, and commanders, or the majority of them so assembled, having given previous notice in the manner herein-before directed; which said respective trustees shall continue from time to time until new trustees are nominated, appointed, and confirmed as aforesaid; and the said instrument shall be sent, free of expence, to the president and assistants or committees of the said corporation, who are hereby authorized and required to confirm the same under the common seal of the said corporation, without fee or reward, within fifteen days after the receipt

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4 & 5 W. 4,
c. 52.

If masters fail to produce proper certificates, tide waiters to be continued on board at their expence.

Penalties by this act recoverable before a magistrate.

Service of notice of application.

Owners and masters of ships of any of the outports empowered to meet and appoint trustees for the said duties, who are to continue till 26th December in each year.

New trustees to be chosen yearly, and by instrument of election to be confirmed by president, &c.

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c. 52.

Five trustees to be a quorum, with power to make bye-laws and appoint officers.

Instrument of trust to be forwarded to president and governors within sixty days after every 26th December.

Appointments on default not revocable within five years.

Trustees heretofore appointed at the several out-ports to be subject to the provisions of this act.

The corporation of the merchants venturers of Bristol appointed trustees for the duties, &c. received there;

thereof; which said trustees when they shall be so confirmed as aforesaid (and whereof five shall be a quorum) shall be vested with and have the same powers and authorities to make bye-laws, and to revoke or alter the same, and to take, receive, and apply any sum or sums of money which shall be contributed, devised, or bequeathed by any well-disposed persons for the purposes aforesaid, and to appoint receivers and other officers, and to collect, recover, receive, pay, and apply the said duties of two shillings per month and one shilling per month so to be allowed and paid by the seamen or other persons serving on board any ship or vessel belonging to such persons respectively at such out-ports as aforesaid, according to such rules, orders, and regulations as are or shall be established by virtue and in pursuance of this act, or have been established and continued under the provisions of the said act of the twentieth year of the reign of his said Majesty George the second, so far as the same are not inconsistent with or repealed or varied by the provisions of this act; and the said receivers and other officers shall have the same powers and authorities as the other receivers and officers to be appointed in pursuance of this act, and shall be subject and liable to the same penalties and forfeitures, any thing herein contained to the contrary thereof in anywise notwithstanding: Provided always, That if the said instrument of trust in this act mentioned shall not be sent to the president and assistant or committees within sixty days after every such nomination and appointment of trustees, when any such shall have taken place, the trust thereby created shall be considered void, and the trustees appointed under it as discharged from the said trust; and that the said president and governors and their successors duly appointed shall have power to appoint a receiver or receivers for the port or place from which such instrument of trust shall not have been sent as aforesaid, for the purpose of collecting the duties and allowances payable under and by virtue of this act at such port or place aforesaid; and that the said president and governors and their successors shall have power to demand and receive from the outgoing trustee or trustees of such port or place aforesaid an account in writing of the former management of such void trust, and also to demand the payment from such trustee or trustees of any balance which may at the time of such default be in the hands of such trustee or trustees, who are hereby required to pay and deliver over the same to such receiver so to be appointed as aforesaid, together with the books of account and other books belonging to such trustee or trustees relative to such trust.

XVII. That where, on the default or neglect aforesaid, any such receiver or receivers shall be appointed, such appointment shall not be revocable within five years after the same shall have been so made, except by the said president and governors as they shall see fit

XVIII. And whereas trustees have been nominated and appointed at many of the out-ports of England for similar purposes to those hereby provided under and by virtue of the said act of his Majesty king George the second; be it further enacted, and it is hereby declared, That all such trustees are to be deemed within and subject to the provisions of this act in the same manner as if they had been nominated, appointed, and confirmed under and by virtue thereof; and all such trustees are hereby empowered to continue to act in their respective trusts until the twenty-sixth day of December one thousand eight hundred and thirty-five, or until new trustees shall have been appointed, nominated, and confirmed by virtue of this act.

XIX. And whereas by letters patent bearing date the eighteenth day of December in the sixth year of the reign of king Edward the sixth, certain merchants therein named, and their successors, residing in the city and port of Bristol, are incorporated by the name of "The Master, Wardens, and Commonalty of Merchant Venturers of the city of Bristol," which said society of merchants are willing, for the benefit of the seamen employed on board ships and vessels in the service of merchants and other traders belonging to the said city and port, to under-

take the collection and application of the duties payable under this act at the said city and port, and to continue to exercise the powers and authorities and to discharge the trusts vested in them by the said act of the twentieth year of the reign of king George the second, except so far as the same are varied or revoked by this act; be it further enacted, That the master, wardens, assistants, and treasurer of the said incorporated society for the time being shall be trustees, and shall have and be vested with the like powers and authorities for collecting, recovering, receiving, and applying the said duties of two shillings per month and one shilling per month to be allowed, collected, and received by virtue of this act at the said city and port, and for taking, receiving, and applying any sum or sums of money which shall be contributed, devised, or bequeathed by any well-disposed persons for the relief and support of the seamen employed in the ships and vessels belonging to the merchants and traders residing at the said city and port, and their widows and children, as shall be entitled thereto by virtue of this act, and to appoint and continue receivers and other officers for the purposes aforesaid, as are given by this act to the said president and governors, according to such rules, orders, and regulations as are or shall be established by virtue of this act, or having been established by virtue of the said act of the reign of king George the second, are not inconsistent with or revoked by the provisions of this act; and such receivers and officers shall have the same powers and authorities as the other receivers and officers appointed or continued by virtue of this act, and shall be subject and liable to the same penalties and forfeitures; and the said master, wardens, assistants, and treasurer shall also have power to take, receive, and hold any lands, tenements, and hereditaments in such manner and for the like purposes only as the said president and governors are by this act or by the said act of the twentieth year of the reign of king George the second empowered to take, receive, and hold lands, tenements, and hereditaments, any thing herein contained to the contrary thereof in anywise notwithstanding.

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c. 52.

XX. And whereas the guild or brotherhood of masters and pilots seamen of the Trinity house of the town and port of Kingston-upon-Hull, are willing, for the benefit of the seamen employed on board ships and vessels in the service of merchants and other traders belonging to the said town and port, to undertake the collection and application of the said duties payable under this act at the said town and port, and to continue to exercise the powers and authorities and discharge the trusts vested in them by the said act of the twentieth year of the reign of king George the second; be it therefore enacted, That the guild or brotherhood of masters and pilots seamen of the Trinity house of the town and port of Kingston-upon-Hull for the time being shall be trustees, and shall have and be vested with the like powers and authorities for collecting, recovering, and applying the said duties of two shillings per month and one shilling per month to be paid at the said town and port, and for taking, receiving, and applying bequests and donations for the purposes aforesaid, and for appointing and continuing receivers and other officers, as are given and granted by virtue of this act to the president and governors aforesaid, according to such rules, orders, and regulations as are or shall be established by virtue of this act, or being established under and by virtue of the said act of the twentieth year of the reign of king George the second, are not inconsistent with or revoked by the provisions of this act; and such receivers and other officers shall have the same powers and authorities as the other receivers and officers to be appointed or continued under this act, and shall be subject to the like penalties and forfeitures, any thing herein contained to the contrary thereof notwithstanding.

and empowered to hold lands for the purpose of this act.

The guild of the Trinity house of Kingston-upon-Hull appointed trustees for the duties, &c. received there.

XXI. And whereas it is expedient that the port of the city of Glasgow, The ports of

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c. 52.

Glasgow, Greenock, and Port Glasgow, &c. to be deemed one united port, and masters of ships belonging thereto to elect trustees for collecting duties, &c.

the port of Greenock, and the ports of Port Glasgow, Crawford's Dyke, Gourrock, and their dependencies, all situate and being on the river or firth of Clyde in Scotland, shall be deemed and taken as one united port for the purposes of this act: be it therefore enacted, That the said port of the city of Glasgow, the port of Greenock, and the ports of Port Glasgow, Crawford's Dyke, Gourrock, and their dependencies, all situate and being on the river or firth of Clyde, shall, for the purposes of this act, be held, deemed, and taken as one united port; and that it shall and may be lawful for the owners, masters, and commanders of ships and vessels belonging to persons residing at any of the said united ports of Glasgow, Greenock, Port Glasgow, Crawford's Dyke, Gourrock, and their dependencies, to assemble and meet at Glasgow, upon notice given for that purpose in the manner herein-before directed, and such owners, masters, and commanders, or the greater part of them, being so assembled, are hereby authorized and empowered from time to time to make bye-laws, and elect and appoint fifteen persons to be trustees for such united port, of whom five shall be resident at each of the said ports of Glasgow, Greenock, and Port Glasgow, for the purposes of this act; and which said trustees shall be invested with all the powers and authorities that are given and granted by virtue of this act to the trustees of any other out-port, and shall have and be vested with full power and authority for recovering, collecting, receiving, and applying all such rates and duties as may be deemed adequate for the relief of the sick, worn-out, and decayed seamen belonging to the said ports and their dependencies, and their widows and families, not exceeding in the whole the said duties of two shillings per month and one shilling per month, to be allowed, collected, and received by virtue of this act at the said united ports of Glasgow, Greenock, Port Glasgow, Crawford's Dyke, Gourrock, and their dependencies, and for taking, receiving, and applying any sum or sums of money which may have been or shall be contributed by any well-disposed persons, or which may have been or shall be otherwise collected for the relief and support of the seamen employed in the ships and vessels belonging to the merchants and traders residing at the said united ports of Glasgow, Greenock, Port Glasgow, Crawford's Dyke, Gourrock, and their dependencies, or either of them, and their widows and children, as shall be entitled thereto by virtue of this act, any thing herein contained to the contrary thereof in anywise notwithstanding.

Trustees of out-ports to transmit account of the yearly receipts and expenditure to president and governors.

XXII. That all and every the trustees for the several out-ports who now are or shall be appointed under and by virtue of the act of the twentieth year of the reign of his said late Majesty king George the second, or of this act, shall and they are hereby required to transmit annually, within sixty days after every thirty-first day of December in every year, to the said president and governors, a true and correct account of the receipts and expenditure during the year of such their several trusts, conformable to a form or plan to be prescribed and forwarded by the said president and governors, under the penalty of twenty pounds, to be recovered and recoverable before a magistrate or justice of the peace as other penalties given by this act; and that such account of the receipts and expenditure of such trustees, together with an account of the receipts and expenditure of such president and governors, shall be annually laid before the honourable the House of Commons.

Collectors appointed by trustees or corporations aforesaid not to send duplicate of muster rolls to the president and assistants.

XXIII. That nothing herein contained shall be construed to extend to oblige the receivers or collectors of the said duty appointed by the trustees of any of the said respective out-ports to send the duplicates of the muster rolls hereby directed to be delivered to the receivers and collectors of the said duties in the manner herein-before mentioned, to the said president and assistants or committees, for any vessels belonging to the ports where such payment shall be made, but such duplicate shall be delivered by such collectors or receivers to the said

respective trustees, and to be by them filed and preserved for their use and inspection.

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c. 52.

XXIV. Provided always, and be it hereby declared, That no seaman or other person employed on board any merchant ship, steam packets, or other private ship or vessel shall be entitled to receive any provision or benefit by virtue of this act, at the port of London or elsewhere, unless he be subject or liable to the said duty hereby imposed, and shall pay the same when and where the same shall be required of him by virtue of this act.

No seamen to have the benefit of this act unless he pays the duty.

XXV. Provided also, and be it hereby declared, That those seamen who shall have been longest in the said service, and contributed most towards the said duties, shall be first provided for as worn out or decrepit.

Those who have served longest to be first provided for.

XXVI. And whereas it may happen that seamen or other persons employed on board ships or vessels may by accident in loading or unloading the same, or otherwise by doing such duty on shore as well as on board such ships or vessels, receive such hurt or damage that it may endanger their lives to send them to the port to which the ships or vessels respectively belong; Be it therefore further enacted, That in case any seaman or other person employed on board any merchant ship or private ship or vessel shall, in doing his duty on shore, or on board any such ship or vessel while in a port other than that to which the said ship or vessel shall belong, break an arm or leg, or be otherwise hurt or maimed, so that it is necessary that immediate care should be taken of him, it shall and may be lawful for the said president and governors at the port of London, and the respective trustees for the out-ports, as the case may be, and they are hereby required, to provide proper relief for every such seaman or other person that shall be so hurt or maimed at their respective ports, until he shall be so well recovered from such hurt or damage as to be removed and sent with safety to the port to which the ship or vessel in which such seaman was at the time of the accident employed shall belong; and the expence of relieving and maintaining such seaman until he be so removed as aforesaid, and also the expence of removing him, not exceeding two-pence per mile, shall be repaid to the said president and governors at the port of London, or to the trustees, if any, for the respective out-port at which the accident shall have happened, by the trustees of the port to which such ship or vessel shall belong.

Maimed seamen to be provided for at the port where the accident happens.

XXVII. That in case any seaman or other person shall serve five years or more on board merchant or other ships or vessels belonging to different ports, and shall have paid the monthly duties for that entire period, and shall have become decrepit and worn out, and adjudged either by the said president and assistants or committees, or by the trustees at any of the out-ports, a proper object of relief, such person shall be provided for and relieved at the port where he shall have contributed and paid the greatest part of the said duties for the last five years of his service, any thing herein contained to the contrary notwithstanding.

Disabled seamen having served and paid five years to be provided for where they have contributed most.

XXVIII. And whereas it may happen that seamen or other persons employed in the merchant service within the limits of this act may be shipwrecked, or taken by the enemies of his Majesty, and on their return from shipwreck or imprisonment may be returning with passes to the places of their respective abodes; be it further enacted, That it shall and may be lawful for the said president and governors, or the respective trustees, if they think fit, to relieve any such seaman or other person in such manner as they shall think proper.

Seamen who have been shipwrecked or made prisoners by the enemy, may be relieved.

XXIX. And whereas there may be some circumstances wherein some of the respective certificates herein-before mentioned cannot be obtained; be it therefore enacted, That in all cases where the certificates directed to be produced by this act for the purpose of entitling the parties producing the same to relief and support cannot be obtained, such other certificates as shall be satisfactory to the said president and governors or

Where regular certificates cannot be obtained, others may be admitted.

No. XXVI. trustees respectively shall be received and allowed so as to entitle the
4 & 5 W. 4, party producing the same to the pensions or other relief provided by
c. 52. this act.

Wages of deceased seamen to be paid to the trustees of the port on the ship's arrival, to the use of the executor, &c.

XXX. That all and every sum and sums of money which shall be due for wages to any seaman, mariner, or other person hired or engaged on board any British merchant ship in any port or ports in Great Britain or Ireland, who shall have died on board during the voyage, shall, within three months after the arrival of such merchant ship in any port or ports of Great Britain and Ireland, be paid to the trustees of the said port to be appointed in pursuance of this act, or to the receiver or collector or other authorized agent of the said president and governors, where there are no such trustees, to and for the use of the executor or executors, administrator or administrators of the seaman, mariner, or other person so dying; and in case no claim shall be made on the said trustees by the executors or administrators of such seaman, on account of such wages, within one year after the same shall have been paid over as aforesaid, that then the said trustees of the said port shall remit the same to the collector or receiver of the said president and governors, or other their authorized agent at the port of London, in such manner and at such times as the said president and governors shall direct, to and for the use of the executor or executors, administrator or administrators of the seaman, mariner, or other person so dying; and in case no claim shall be made on the said president and governors by the executors or administrators of such deceased seaman, on account of such wages, within one year after the same shall have been first paid over to any collector, receiver, or agent of the said president and governors, then it shall be lawful for the said president and governors to direct such wages to be paid over (but without interest for the same) to the widow, or if there be no widow claiming, then to the lawful issue respectively, or such persons as by virtue of the statutes of distribution of intestate's effects shall be entitled to the same; and if any master or commander of any such merchant ship shall neglect or refuse to pay over or tender to the said trustees, or the receiver or collector at the port aforesaid, all and every such sum and sums of money within the time herein-before limited, he shall forfeit and pay for every such offence double the amount of the sum or sums of money so due to any seaman, mariner, or other person for wages aforesaid.

If not demanded in three years by representatives, then to the use of the president and governors, or the trustees of the respective ports.

XXXI. Provided always, That all and every such sum and sums of money as shall not be lawfully demanded of the said receiver, collector, or other authorized agent of the said president and governors at the port of London by any legal representative, or widow or issue, or other person hereby authorized, as the case may be, within the term of two years after the first payment thereof to any collector or agent of the said president and governors, shall be forfeited, and shall go and be paid to the use of the said president and governors, or to the trustees of the port, if any, to which such ship belongs, by such receiver, collector, or other authorized agent of the said president and governors at the port of London aforesaid.

President and governors to pay 5 per cent. out of the duties received by them from seamen in the port of London to the seamen's hospital society in that port.

XXXII. And whereas by an act passed in the last session of this present parliament, intituled *An Act for incorporating the members of a Society commonly called The Seamen's Hospital Society, and their Successors, as therein is mentioned and provided; and for the better enabling and empowering them to carry on the charitable and useful Designs of the said Society*, a certain society was incorporated by the name of the seaman's hospital society: And whereas the said society was instituted for the charitable relief of sick and distressed seamen in the port of London, and for the providing them with medical and surgical aid, lodging, support, and clothing until convalescent: And whereas it is expedient to provide some permanent funds for enabling the said society to carry on their said charitable designs; be it therefore enacted, That the said president and governors, and their successors, or their treasurer or other officer for the time being on their behalf, shall and do, from and after

this act shall take effect, from time to time pay over to the said seaman's hospital society, or their treasurer for the time being, the amount of five pounds in every one hundred pounds, and in the same proportion for any greater or less sum, on the net amount to be collected and received by the said president and governors and their successors, and by their receiver, collector, or other authorized agent at the port of London for the aforesaid duties of two shillings *per mensem* and one shilling *per mensem* hereby made payable, so far as the same shall be derived from the duty imposed upon seamen, or in respect of the wages of seamen, in such ships or vessels as shall belong to the said port of London, such payments to be made to the said seamen's hospital society, or their treasurer for the time being, every three months; (that is to say,) on the _____ day of _____ on the _____ day of _____ on the _____ day of _____ on the _____ day of _____ in every year; and the first of such payments to be made on such of the said days as shall happen next after this act shall take effect; all such payments to be applied by the said seamen's hospital society according to the directions of the aforesaid act of the last session of this present parliament.

No. XXVI.
4 & 5 W. 4,
c. 52.

XXXIII. That it shall and may be lawful to and for the said receiver or collector or other authorized agent of the said president and governors at the port of London aforesaid, and he is hereby authorized, to deduct and receive from the gross amount of such sum or sums of money as shall be derived from the unclaimed wages of deceased seamen, so received by him in respect of such wages of deceased seamen as aforesaid, the sum of five pounds per centum as, for, and in satisfaction of all expences and trouble he may be put to in the receipt, collection, or transmission thereof. Five per cent. to be deducted from gross amount in lieu of expences, &c.

XXXIV. That all penalties and forfeitures given by this act shall be paid and applied in manner following; (that is to say,) one third part thereof to and for the person or persons who shall inform and sue for the same, and the other two third parts thereof to the said president and governors, on account of the trustees of the port to which such ship or vessel in respect of which the forfeiture shall arise belongs; and such penalty or forfeiture shall be recovered by bill, plaint, or information in any of his Majesty's courts of record at Westminster, or such of them as do not exceed the sum of twenty pounds, upon information, on the oath of one or more witnesses, before any one or more of his Majesty's justice or justices of the peace in any part of the kingdom of Great Britain or Ireland, who shall not reside more than ten miles from the place of abode of the person or persons complained of; which justice or justices is and are hereby authorized and required to issue out his or their warrant or warrants to bring before him or them every person charged with any offence under this act, and, in case he or they shall refuse or neglect to pay such penalties or forfeitures as aforesaid, to issue his or their warrant or warrants to levy the same by distress and sale of the offender's goods, and, in case no distress can be found, to commit the offender or offenders to the common gaol of the city, town, or place within the jurisdiction of such respective justice or justices, there to remain for the space of three calendar months, or until he or they shall pay the same. Application of penalties.

XXXV. That if any action shall be brought or suit be commenced against any person or persons for any thing done in pursuance of this act, or in relation to the premises or any of them, every such action or suit shall be laid or brought within two calendar months next after the grievance committed in the county or place where the fact was done, and not elsewhere; and the defendant or defendants in such action may plead the general issue, and give this act, and a tender of amends before action brought, or the special matter, in evidence at any trial to be had hereupon, and that the act or matter was done in pursuance and by the authority of this act; and if the same shall appear to have been so done, or if any such action or suit shall not be brought within the time Limitation of actions.

No. XXVI. before limited, and shall be brought in any other county or place than
4 & 5 W. 4, as aforesaid, or the jury shall not consider the aggrieved party entitled
c. 52. to more than the amends tendered, then the jury shall find for the
defendant or defendants; or if the plaintiff or plaintiffs shall become
nonsuit, or suffer a discontinuance of his, her, or their action or actions,
or if a verdict shall pass against the plaintiff or plaintiffs, or if upon
demurrer judgment shall be given against the plaintiff or plaintiffs, the
defendant or defendants shall have double costs, and shall have such
remedy for recovering the same as any defendant or defendants hath or
have for costs in other cases at law.

Public act. XXXVI. That this act shall be deemed and taken to be a public act,
and shall be judicially taken notice of as such by all judges, justices,
and others.

[No. XXVII.] 4 & 5 W. IV. c. 89.—An Act to amend the Laws relating to the Customs. [15th August 1834.]

[No. XXVIII.] 4 & 5 W. IV. c. 94.—An Act to enable His Majesty to invest trading and other Companies with the Powers necessary for the due Conduct of their Affairs, and for the Security of the Rights and Interests of their Creditors. [15th August 1834.]

6 G. 4, c. 91.

WHEREAS by an act passed in the sixth year of his late Majesty king George the fourth, intituled *An Act to repeal so much of an Act passed in the Sixth Year of His late Majesty King George the First as relates to the restraining several extravagant and unwarrantable Practices in the said Act mentioned, and for conferring additional Powers upon His Majesty with respect to the granting of Charters of Incorporation to trading and other Companies*, it is amongst other things enacted, That in any charter hereafter to be granted by his Majesty, his heirs or successors, for the incorporation of any company or body of persons, it shall and may be lawful in and by such charter to declare and provide that the members of such corporation shall be individually liable in their persons and property for the debts, contracts, and engagements of such corporation, to such extent, and subject to such regulations and restrictions, as his Majesty, his heirs or successors, may deem fit and proper, and as shall be declared and limited in and by such charter, and the members of such corporation shall thereby be rendered so liable accordingly: And whereas divers companies and bodies of persons do and may from time to time associate themselves together for trading, charitable, literary, or other purposes, which associations it would be inexpedient to incorporate by royal charters, granted either according to the rules of the common law, or in pursuance of the said recited act, although it would be expedient to confer upon such associations, or some of them, some of the privileges of and incident to corporations created by royal charters, and especially the privilege of maintaining and defending suits, actions, prosecutions, or other legal proceedings, in the name or names of some one or more of the principal officers for the time being of such associations respectively: Be it therefore enacted, &c., That it shall and may be lawful for his Majesty, his heirs and successors, by letters patent to be from time to time for that purpose issued under the great seal of the united kingdom of Great Britain and Ireland, or in Scotland under the seal appointed by the articles of union to be used, and instead of the great seal thereof, to grant to any company or body of persons associated together for any trading, charitable, literary, or other purposes, and to the heirs, executors, administrators, and assigns of any such persons, although not incorporated by such letters patent, any privilege or privileges which, according to the rules of the common law, or in pursuance of the said recited act, it would be competent to his Majesty, his heirs and successors, to grant to any such company or body of persons in and by any charter of incorporation, and especially the before-mentioned privilege of maintaining and defending actions, suits, prosecutions, and other proceedings, both at law, and in equity, in the name or names of any one or more of the principal officers for the time being of any such associations respectively, which privileges shall be granted in and by such letters patent, in such manner and form, and upon such conditions for the prevention of abuses in the management of the affairs of any such associations, and for the security of the rights and interests of their creditors, and for the protection of the public at large, as his Majesty, his heirs and successors, shall by any such letters patent as aforesaid see fit from time to time to prescribe

His Majesty empowered by letters patent, to grant to trading companies not incorporated certain privileges for protection of themselves and of the public.

and impose; and any letters patent which shall be so granted and issued as aforesaid shall, to the extent of the privileges thereby granted, and subject to the conditions to be thereby imposed, be as valid and effectual in the law as if such privileges were granted and such conditions were imposed by any act passed for granting and imposing the same: Provided always, That in all cases where such letters patent shall be granted to any such company or body of persons, it shall and may be lawful, in all suits or proceedings in equity commenced or instituted against the principal officer or officers of such company or body of persons, to join, for the purpose of discovery, in such suits or proceedings, any member or members of such company as the nominal defendant or defendants for or on behalf of such company or body of persons, subject to the payment by the plaintiffs of such costs as the court in which such proceedings may be had shall in that behalf order or direct: Provided always, That nothing in this act contained shall enable his Majesty to grant to any company or body of persons any privilege under this act until after notice in the *Gazette* shall have been given three months that it is intended to grant such privilege or privileges.

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4 & 5 W. 4,
c. 94.

Name of any member may be joined with principal officer in suits in equity.

No privilege to be granted until after three months' notice in *Gazette*.

II. And to the end that the issuing of such letters patent, and the name or names of the principal officer or officers for the time being of the several associations thereby constituted, may be made known to the public, be it enacted, That an entry of the grant of such letters patent, and of the name or names of the principal officer or officers therein designated, or who may from time to time be appointed by virtue of the powers for that purpose contained in such letters patent, shall be made in a book to be kept for that purpose in the office of the clerk of the patents, and that the same shall be open for inspection at all reasonable times, by any person requiring the same, on payment of a fee of one shilling only; and further, that a sufficient notice or memorandum of such letters patent, together with the name or names of such principal officer or officers, be advertised in the *London Gazette* within one calendar month from the date of such letters patent, and also in some one newspaper published or circulating in the county or place where the meetings of any such association shall be usually held; and also, that upon the death, or change from any other cause whatever, of any such principal officer or officers, notice thereof, and of the name or names of the person or persons succeeding him or them, shall in like manner be recorded in the office of the clerk of the patents, and advertised in the *London Gazette* and in some one newspaper as aforesaid; and the officer or officers so from time to time recorded and advertised shall, for all intents and purposes, be held and considered as the party or parties entitled to sue and to be sued on behalf of his or their respective associations, within the meaning of this act, and of any patent or patents to be from time to time granted by virtue thereof.

Entry of grant of letters patent to be made in the office of clerk of the patents, and a memorandum thereof published in the *London Gazette* and in one newspaper in the neighbourhood of the association.

III. That any decree, judgment, order, or interlocutor made or pronounced in any action, suit, or proceeding in any court of law or equity against any officer of any such company, body, or association named as aforesaid, shall have the like effect and operation upon and against the property, funds, and effects of such company, body, or association, and upon and against the persons and property of every and any member thereof, as if such company, body, or association, and such member or members thereof, had been a party or parties to such action, suit, or proceeding, and as if such decree, judgment, order, or interlocutor had been pronounced against such company, body, or association, or against every or any such member or members thereof; provided that no diligence or execution shall pass or be issued thereon without leave first granted in open court by the court in which such decree, judgment, order, or interlocutor was made or pronounced, and which motion shall be made on notice to the person or persons sought to be charged, nor after the expiration of three years next after such person or persons shall have ceased to be a member of such company, body, or association.

Decrees, judgments, &c. given against said company to extend to the property of such company, and to the person and effects of every member thereof.

No. XXVIII.

4 & 5 W. 4,
c. 94.

List of mem-
bers' names,
with their
places of
abode, to be
filed with clerk
of patents, and
be open for inspection
Saving privi-
leges of existing
companies.

IV. Provided always, That the principal officer or officers for the time being of such company or body of persons to whom such letters patent shall be granted shall, in the first week of the month of June and in the first week of the month of December in each year during the continuance of such letters patent, cause a true list of the names of all the then existing members of such company or body of persons, with their respective places of abode and description, to be filed with the clerk of the patents, and that the same shall be open for inspection at all reasonable times by any person requiring the same.

V. Provided always, That nothing in this act contained shall authorize or be construed to authorize the grant to any company or body of persons of any privilege in derogation of any exclusive privileges now enjoyed by any company or corporation under any act or acts of parliament.

[No. XXIX.] 5 & 6 W. IV. c. 13.—An Act to regulate the importation of Corn into the Isle of Man.

[3rd July 1835.]

[No. XXX.] 5 & 6 W. IV. c. 19.—An Act to amend and consolidate the Laws relating to the Merchant Seamen of the United Kingdom and for forming and maintaining a Register of all the Men engaged in that Service.

[30th July 1835.]

WHEREAS the prosperity, strength, and safety of this united kingdom and of his Majesty's dominions do principally depend on a large, constant, and ready supply of seamen, as well for carrying on the commerce as for the defence thereof; and it is therefore necessary to aid by all practicable means the increase of the number of such seamen, and to give them all due encouragement and protection, and to this end to amend and consolidate the laws relating to their regulation and government: Be it therefore enacted, &c. That after [31st July, 1835, the acts 2 & 3 Ann, c. 6; 2 G. 2, c. 36; 2 G. 3, c. 31; 31 G. 3, c. 39; 45 G. 3, c. 81; 37 G. 3, c. 73; 58 G. 3, c. 38; 4 G. 4, c. 25; 3 & 4 W. 4, c. 88, and 59 G. 3, c. 58, shall be repealed.] Provided always, that all offences which shall have been committed and all penalties and forfeitures which shall have been incurred previous to the commencement of this act, against the provisions of the said acts, shall and may be punishable and recoverable under the said acts as if the same had not been repealed.

No seaman to
be taken to sea
without a
written agree-
ment.

II. That it shall not be lawful for any master of any ship or vessel belonging to any subject of his Majesty of this united kingdom trading to parts beyond the seas, or of any British registered ship of the burthen of eighty tons or upwards employed in any of the fisheries of the united kingdom, or in trading coastwise or otherwise, to carry to sea on any voyage, either from this kingdom or from any other place, any seaman or other person as one of his crew or complement (apprentices excepted), without first entering into an agreement in writing with every such seaman, specifying what monthly or other wages each such seaman is to be paid, the capacity in which he is to act, and the nature of the voyage in which the ship is intended to be employed, so that the seaman may have some means of judging of the probable period for which he is likely to be engaged; and the said agreement shall contain the day of the month and year in which the same shall be made, and shall be signed by the master in the first instance, and by the seamen respectively at the port or place where such seamen shall be respectively shipped; and the master shall cause the same to be, by or in the pre-

sence of the party who is to attest their respective signatures thereto, truly and distinctly read over to every such seaman before he shall be required to sign the same, in order that he may be enabled to understand the purport and meaning of the engagement he enters into and the terms to which he is bound.

No. XXX.
4 & 5 W. 4,
c. 19.

III. That in the cases of ships as aforesaid bound to parts beyond the seas, except as herein-after provided, every such agreement shall be in the form and shall contain true entries under their respective heads of the several particulars set forth in the schedule to this act annexed and marked (A.), so far as the same can be ascertained; and that the owners and the master of every such ship, or one of them, shall, on reporting his ship's arrival at her port of destination in the united kingdom, deposit or cause to be deposited with the collector or comptroller of the customs at such port a true copy of such agreement, attested by the signature of the master, to the intent that every person who may be interested in any such agreement may at all times have the means of knowing the terms and conditions thereof; and that in the cases of ships employed in fishing on the coasts of the united kingdom, and of ships regularly trading from one part of the united kingdom to another, and of ships regularly trading or making regular voyages to any of the islands of Jersey, Guernsey, Alderney, Sark, and Man, or to any port on the continent of Europe between the river Elbe inclusive and Brest, the agreement to be entered into as aforesaid shall be in the form and shall contain true entries under their respective heads of the particulars set forth in the schedule to this act annexed and marked (B), so far as the same can be ascertained; and that the owner or one of the owners of every such ship employed in fishing or in trading in any of the cases last mentioned shall to the like intent, within ten days next after the expiration of every six months ending on the thirtieth day of June and the thirty-first day of December in each year, deposit with the collector or comptroller of the customs of the port to which the ship shall belong a true copy of every agreement which shall have been entered into with any person composing part of the crew thereof within the preceding six months, attested by the signature of such owner; and all copies of agreements so required by this act to be deposited as aforesaid shall, when the same shall have been so deposited, and shall be required to be produced in evidence on the part of any seaman, be received and taken as legal proof of the contents of the agreement.

Regulations
respecting form
of agreements.

IV. That if any master of any such ship as aforesaid shall carry out to sea any seaman (apprentices excepted) without having first entered into such agreement as is hereby required, he shall for every such offence forfeit and pay the sum of ten pounds for or in respect of each and every such seaman he shall so carry out contrary to this act; and if any master shall neglect to cause the agreement to be distinctly read over to each such seaman, as by this act he is enjoined, he shall for every such neglect forfeit and pay the sum of five pounds; and if any master shall neglect to deposit with the collector or comptroller of the customs a copy of the agreement hereby required to be made and deposited as aforesaid, or shall wilfully deposit a false copy of any such agreement, he shall for every such neglect or offence forfeit and pay the sum of fifty pounds.

Penalty for
default.

V. That no seaman, by entering into or signing such agreement as aforesaid, shall forfeit his lien upon the ship, nor be deprived of any remedy for the recovery of his wages which seamen are now lawfully entitled to against either the ship, the master or the owners thereof; nor shall any agreement made contrary to or inconsistent with the provisions of this act, or any clause whereby a seaman shall consent to forego the right which the maritime law gives him to wages in the case of freight earned by ships subsequently lost, or containing any words to that effect, be valid or binding on any seaman signing the same; and that in cases in which it may be necessary that the agreement should be produced to sustain a claim on the part of a seaman no obligation

Seamen not to
be deprived of
legal remedies.

No agreement
contrary to the
act to be valid.

Seamen not
bound to pro-
duce agree-
ment.

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Seamen re-
fusing to join
or to proceed
in the ship, or
absenting
themselves
therefrom, may
be committed
to gaol.

shall lie upon the seaman to produce the same, nor shall any seaman fail in any suit or proceeding for the recovery of his wages for want of the production of any such agreement, or of any deposited copy thereof as aforesaid, or for the want of any notice to produce the same; any law or usage to the contrary notwithstanding.

VI. That in case a seaman shall at any time, after having signed an agreement as herein before mentioned, neglect or refuse to join the ship on board of which he shall have engaged to serve, or shall refuse to proceed to sea in her, or shall absent himself therefrom without leave, it shall be lawful for any justice of the peace in any of his Majesty's dominions at home or abroad near to the place where such ship shall happen to be, upon complaint of the fact made upon oath by the master, mate, or owner thereof, and such justice is hereby required, by his warrant to cause such seaman to be apprehended and brought before him; and in case such seaman shall not give a reason to the satisfaction of such justice for his neglect, refusal, or absence, as the case may be, upon due proof of such neglect, refusal, or absence it shall be lawful for any such justice to commit such seaman to the house of correction, there to be kept to hard labour for a period not exceeding thirty days: Provided always, That in case such seaman, on being apprehended and brought before the said justice, shall consent to join the ship and proceed on the voyage for which he shall have agreed, it shall be lawful for the said justice, at the request of the master, instead of committing such seaman, to cause him to be conveyed on board the said ship or to be delivered to the master for the purpose of proceeding on the voyage, and also to award to the master such costs incurred in the apprehension of the seaman as to such justice shall seem reasonable, not exceeding in any case the sum of forty shillings, which shall be chargeable against and may be abated from the wages to grow due to such seaman.

Forfeiture for
temporary ab-
sence from
duty.

VII. That if any seaman, after having signed such agreement as aforesaid, or after the ship on board which he shall have agreed to serve shall have left her first port of clearance, and before the period for which he shall have agreed to serve shall be completed, shall wilfully and without leave absent himself from the ship, or otherwise from his duty, he shall (in all cases not of absolute desertion, or not treated as such by the master,) forfeit out of his wages to the master or owner of such ship the amount of two days' pay for every twenty-four hours of such absence, and in a like proportion for any less period of time, or, at the option of the said master, the amount of such expences as shall have been necessarily incurred in hiring a substitute to perform his work; and in case any seaman while he shall belong to the ship shall without sufficient cause neglect to perform such his duty as shall be reasonably required of him by the master or other person in command of the ship, he shall be subject to a like forfeiture in respect of every such offence, and of every twenty-four hours' continuance thereof; and in case any such seaman, after having signed such agreement, or after the ship's arrival at her port of delivery, and before her cargo shall be discharged, shall quit the ship without a previous discharge or leave from the master thereof, he shall forfeit to the master or owner one month's pay out of his wages: Provided always, That no such forfeitures shall be incurred unless the fact of the seaman's temporary absence, neglect of duty, or quitting the ship shall be duly entered or recorded in the ship's log book, which entry shall specify truly the hour of the day at which the same shall have occurred, and the period during which the seaman was absent or neglected his duty, the truth of which entry it shall be incumbent on the owner or master in all cases of dispute to substantiate by the evidence of the mate or some other credible witness.

How amount
of forfeiture is
to be ascer-
tained when

VIII. That in all cases where the seaman shall have contracted for wages by the voyage or by the run, and not by the month or other stated period of time, the amount of forfeitures to be incurred by seamen under this act shall be ascertained in manner following; (that is to say,)

if the whole time spent in the voyage agreed upon shall exceed one calendar month, the forfeiture of one month's pay, expressed in this act, shall be accounted and taken to be a forfeiture of a sum of money bearing the same proportion to the whole wages as a calendar month shall bear to the whole time spent in the voyage, and in like manner a forfeiture of two days' pay or less shall be accounted and taken to be a forfeiture of a sum bearing the same proportion to the whole wages as the same period of time shall bear to the whole time spent in the voyage; and if the whole time spent in the voyage shall not exceed one calendar month, the forfeiture of one month's pay shall be accounted and taken to be a forfeiture of the whole wages contracted for; and if such time shall not exceed two days, the forfeiture of two days' pay shall be accounted and taken to be a forfeiture of the whole wages contracted for; and the master is hereby authorized to abate the amount of all forfeitures herein-before enacted out of the wages of any seaman incurring the same.

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c. 19.

seamen contract for the voyage.

IX. That every seaman who shall absolutely desert the ship to which he shall belong shall forfeit to the owner or master thereof all his clothes and effects which he may leave on board, and all wages and emoluments to which he might otherwise be entitled, provided the circumstances attending such desertion be entered in the log book at the time and certified by the signature of the master and mate or other credible witness; and that an absence of a seaman from the ship for any time within the space of twenty-four hours immediately preceding the sailing of the ship without permission from the master thereof, or for any period however short, under circumstances plainly showing that it was his intention not to return thereto, shall be deemed an absolute desertion; and in case any such desertion shall take place in parts beyond the seas, and the master of the ship shall be under the necessity of engaging any seaman as a substitute for the deserter at a higher rate of wages than that stipulated in the agreement to be paid to the seaman deserting, the owner or master of the ship shall be entitled to recover from the deserter by summary proceeding, in the same manner as wages are by this act made recoverable, any excess of wages which such owner or master shall pay to such substitute beyond the amount which would have been payable to the deserter in case he had duly performed his service pursuant to his agreement.

Forfeiture for desertion.

Increased wages paid in consequence of desertion recoverable from the deserter.

X. That if any person shall, either on shipboard or on shore, harbour or secrete a seaman who shall have signed an agreement to proceed on a voyage to parts beyond the seas, and shall have deserted or absented himself without leave from his ship, knowing or having reason to believe him to be a deserter or to be absent without leave, every person so offending shall for every such seaman so harboured or secreted forfeit and pay the sum of ten pounds; and that no debt exceeding in amount five shillings, incurred by any seaman after he shall have signed any such agreement as aforesaid, shall be recoverable until the voyage agreed for shall have been concluded; nor shall it be lawful for any keeper of a public house or of a lodging house for seamen to withhold or detain any chest, bed or bedding, clothes, tools, or other effects of any seaman, for any pretended debt alleged to have been contracted by any such seaman; and in case any such chest, bed, bedding, clothes, tools, or other effects as aforesaid shall be withheld or detained contrary to this act, it shall be lawful for any justice of the peace in any part of his Majesty's dominions, upon complaint upon oath to be made by any such seaman or on his behalf, to inquire into the matter, and if he shall see right by warrant under his hand and seal to cause any such property or effects so withheld or detained contrary to this act to be seized and delivered over to the seaman.

Penalty for harbouring deserters.

No debt exceeding 5s. recoverable from a seaman till voyage is ended.

Seamen's effects not to be detained by keepers of lodging-houses under pretence of debt.

XI. That the master or owner of every ship shall and he is hereby required to pay to every seaman entering into such contract as aforesaid his wages, if the same shall be demanded within the respective periods following; (that is to say,) if the ship shall be employed in trading

The period within which wages are to be paid.

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coastwise, the wages shall be paid within two days after the termination of the agreement, or at the time when any such seaman shall be discharged, whichever shall first happen; and if the ship shall be employed in trading otherwise than coastwise, then the wages shall be paid at the latest within three days after the cargo shall have been delivered, or within ten days after the seaman's discharge, whichever shall first happen; in either of which last-mentioned cases of payment being delayed, the seaman shall at the time of his discharge be entitled to be paid on account a sum equal to one-fourth part of the estimated balance due to him; and in case any master or owner shall neglect or refuse to make payment in manner aforesaid, he shall for every such neglect or refusal forfeit and pay to the seaman the amount of two days' pay for each day not exceeding ten days during which payment shall without sufficient cause be delayed beyond the period at which such wages or part wages are hereby required to be paid as aforesaid; for the recovery of which forfeiture the seaman shall have the same remedies as he is by law entitled to for the recovery of his wages: Provided always, That nothing in this clause contained shall extend to the cases of ships employed in the southern whale fishery, or on voyages for which seamen by the terms of their agreement are compensated by shares in the profits of the adventure.

Such payment of wages to be deemed valid notwithstanding bill of sale, &c. XII. And be it enacted and declared, That every such payment of wages to a seaman shall be valid and effectual in law notwithstanding any bill of sale or assignment which may have been made by any such seaman of such wages, or of any attachment or incumbrance thereon; and that no assignment or sale of wages made prior to the earning thereof, nor any power of attorney expressed to be irrevocable for the receipt of any such wages, shall be valid or binding upon the party making the same.

Masters to give seamen their certificates on their discharge. XIII. That upon the discharge of a seaman from the ship in which he shall have served he shall be entitled to receive from the master a certificate of his service and discharge, specifying the period of service and the time and place of the discharge of such seaman, which certificate shall be signed by the master; and if any master shall refuse to give such certificate to any such seaman without having reasonable cause for his refusal, he shall for every such offence forfeit and pay to him the sum of five pounds.

For obtaining immediate payment of wages of seamen in certain cases. XIV. That if after a seaman shall have been discharged from any ship or vessel three days he shall be desirous of proceeding to sea on another voyage, and in order thereto shall require immediate payment of the wages due to him, it shall be lawful for any justice of the peace in any part of his Majesty's dominions, on application from such seaman, and on satisfactory proof that he would be prevented from employment by delay, to summon the master or owner of such ship or vessel before him, and to require cause to be shown why immediate payment of such wages should not be made; and if it shall appear to the satisfaction of such justice that there is no reasonable cause for delay he shall order payment to be made forthwith, and in default of compliance with such order such master or owner shall forfeit and pay the sum of five pounds.

Summary mode of recovering wages not exceeding 20*l*. XV. And whereas seamen, in cases of dispute, may be exposed to great inconvenience, expence, and delay in obtaining payment of their wages; for remedy thereof be it enacted, That in all cases of wages not exceeding twenty pounds which shall be due and payable to a seaman for his service in any ship as aforesaid, it shall be lawful for any justice of the peace in any part of his Majesty's dominions residing near to the place where the ship shall have ended her voyage, cleared at the custom house, or discharged her cargo, or near to the place where the master or owner upon whom respectively the claim is made shall be or reside, upon complaint on oath to be made to such justice by any such seaman or on his behalf, to summon such master or owner to appear before him to answer such complaint, and upon the appearance of such master or

owner, or in default thereof, on due proof of his having been so summoned, such justice is hereby empowered to examine upon the oath of the parties and their respective witnesses (if there be any) touching the complaint and the amount of wages due, and to make such order for payment thereof as shall to such justice appear reasonable and just; and in case such order shall not be obeyed within two days next after the making thereof it shall be lawful for such justice to issue his warrant to levy the amount of the wages awarded to be due, by distress and sale of the goods and chattels of the party on whom such order for payment shall be made, rendering to such party the overplus (if any shall remain of the produce of the sale) after deducting thereout all the charges and expences incurred by the seaman in the making and hearing of the complaint, as well as those incurred by the distress and levy and in the enforcement of the justice's order; and in case sufficient distress cannot be found it shall be lawful for the said justice to cause the amount of the said wages and expences to be levied on the ship in respect of the service on board which the wages are claimed, or the tackle and apparel thereof; and if such ship shall not be within the jurisdiction of such justice, then he is hereby empowered to cause the party upon whom the order for payment shall be made to be apprehended and committed to the common gaol of the county, there to remain without bail until payment shall be made of the amount of the wages so awarded, and of all costs and expences attending the recovery thereof; and the award and decision of such justice as aforesaid shall be final and conclusive as well on every such seaman as on the owner and master of the ship.

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XVI. That if any suit for the recovery of a seaman's wages shall be instituted against the ship, or the master or owner thereof, either in the high court of admiralty or in any vice-admiralty court, or against the master or owner in any court of record in his Majesty's dominions, and it shall appear to the judge in the course of such suit that the plaintiff might have had as effectual a remedy for the recovery of his wages by complaint to a justice of the peace as herein-before provided, then and in every such case it shall be lawful for such judge and he is hereby required to certify to that effect, and thereupon no costs of suit shall be awarded to the plaintiff.

In what case costs of suit for recovery of wages not to be allowed.

XVII. That whenever any ship whatever belonging to any subject of the united kingdom, except in cases of wreck or condemnation, shall be sold at any port out of his Majesty's dominions, the master in all such cases (unless the crew in the presence of the British consul or vice-consul, or in case of there not being any such consul or vice-consul, then in the presence of one or more British resident merchants at such port, shall signify their consent in writing to be there discharged,) shall and he is hereby required, besides paying them the wages to which they shall be entitled under the agreement, either to provide them with adequate employment on board some other British vessel homeward bound, or to furnish the means of sending them back to the port in his Majesty's dominions at which they were originally shipped, or to some port in the united kingdom, as shall be agreed upon, by providing them with a passage home, or depositing with the consul or vice-consul such a sum of money as shall be by him deemed reasonably sufficient to defray the expences of their subsistence and passage; and if the master shall refuse or neglect to do so, such expences when defrayed shall be a charge upon the owner whose ship shall be so sold, except in cases of barratry, wreck, or condemnation, and may be recovered against such owner as so much money paid and expended on his account, together with full costs, at the suit of the consul or other person defraying such expences, or of his Majesty's attorney general on behalf of his Majesty, in case the same shall have been allowed to the consul out of the public monies.

When ship is sold at a foreign port, the crew to be sent home at the expence of the master or owners.

XVIII. And whereas it is necessary that due provision should be made for the preservation of the health and lives of the seamen em-

A supply of medicines to be

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kept on board,
and seamen
hurt in the
service of the
ship to be
provided with
advice, &c.
gratis.

Establishment
of register
office for sea-
men.

Letters to and
from registrar
to be free from
postage.

Masters of
ships trading
abroad to de-
liver lists of
their crews on
their return.

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ployed in the merchant service; be it further enacted, That every ship sailing from the united kingdom to any place out of the same shall have and keep constantly on board the same a sufficient supply of medicines suitable to accidents and diseases arising on sea voyages, which shall be renewed from time to time as shall be found requisite; and in case any default shall be made in providing or keeping supplied such medicines as aforesaid, or in case any of the seamen shall receive any hurt or injury in the service of the ship, the expence of providing the necessary surgical and medical advice, and attendance and medicines which the seaman shall stand in need of until he shall have been cured or shall have been brought back to some port of the united kingdom, shall be borne and defrayed by the owner and master of the ship, or one of them, without any deduction whatever on that account from the seaman's wages.

XIX. And whereas it is expedient that a register should be formed and maintained of all the mariners and seafaring men of the united kingdom, be it therefore enacted, That as soon as conveniently may be after the passing of this act there shall be established in the port of London an office, to be called "The General Register Office of Merchant Seamen," which shall consist of a registrar and such assistants and clerks with such salaries and allowances as shall be fixed and regulated from time to time by the lord high admiral or the commissioners for executing the office of lord high admiral of the united kingdom for the time being, and that such office shall be kept at the custom house of the said port, and daily attendance shall be given thereat during the usual hours of business there; and the said registrar, his assistants and clerks, shall be under the control and directions of the said lord high admiral or the commissioners for executing the office aforesaid for the time being.

XX. That for the more readily carrying this act into execution all letters and packets addressed to and sent by the said registrar upon any business relating to the register office created by this act shall be free from the duty of postage; and that all letters and packets which shall be forwarded by the said registrar in the execution of his duty as such registrar shall be under a cover, with the words, "Pursuant to Act of Parliament of the Fifth Year of King William the Fourth," printed thereon, and the said registrar shall sign his name under such words, and every such cover shall be sealed with the seal of his office; and if the said registrar or any other person shall send or cause to be sent under any such cover any paper, letter, or writing, or any inclosure, other than what shall relate to the public business of the said office, every person shall for every such offence forfeit and pay the sum of one hundred pounds.

XXI. And whereas by an act of the last session of parliament, intituled *An Act to amend an Act of the Twentieth Year of His Majesty King George the Second, for the Relief and Support of sick, maimed, and disabled Seamen, and the Widows and Children of such as shall be killed, slain, or drowned in the Merchant Service, and for other Purposes*, a certain book by way of muster roll is for the purposes of the said act required to be kept on board merchant ships, which book is to contain such entries and statement of account as by the said act is required: And whereas it is expedient for the better effectuating the objects of this act that a due return should be made to the said registrar of merchant seamen of many of the particulars in the said act specified; be it therefore further enacted, That the master of every ship belonging to any subject of his Majesty, and bound to parts beyond the seas, except in the cases next herein-after provided, shall not only keep the book so required by the said recited act, but shall, on reporting his ship on her arrival at her port of destination in the united kingdom, deliver or cause to be delivered to the collector or comptroller of the customs at such port an account, signed by himself, of all the seamen and others (including apprentices) who shall have belonged to the ship at any time

during her absence from the united kingdom, which account shall contain a true and correct return under their respective heads of the several particulars expressed in the form set forth in the schedule annexed to this act, and marked (C.).

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XXII. That within twenty-one days after the thirtieth day of June and the thirty-first day of December in each year, the owner or one of the owners of every ship as aforesaid employed in fishing on the coasts of the united kingdom, or in regularly trading from one part of the united kingdom to another, and of every ship regularly trading or making regular voyages to any of the islands of Jersey, Guernsey, Alderney, Sark, and Man, or to any port on the continent of Europe between the river Elbe inclusive and Brest, shall deposit or cause to be deposited with the collector or comptroller of the customs of the port to which the ship shall belong, or with the said registrar in London, an account, signed by such owner, or by the master, of the voyages in which any such ship shall have been engaged during the preceding half year ending on the respective days above mentioned, and setting forth the Christian and surnames of the several persons (including the master and apprentices) who shall have belonged to the ship at any time during such periods respectively, which account shall be in the form and shall contain a true and correct return under their respective heads of the several particulars expressed in the schedule marked (D.) and to this act annexed.

Masters of ships in the home trade to return similar lists.

XXIII. That in case any ship as aforesaid shall be lost or sold while absent from the united kingdom, then an account containing a similar return as required in the several and respective cases before mentioned, which shall be made out up to the period of such loss or sale, shall by the persons who shall at that time have been respectively owner and master thereof, or by one of them, be delivered or transmitted to the said registrar in the port of London so soon as he shall be enabled to make such return after the loss, and within twelve calendar months at farthest after the sale of the ship.

Return to be made in case of ship lost or sold abroad.

XXIV. That the said several accounts and returns by this act required to be deposited with or delivered to the collector or comptroller as aforesaid shall by such officers of the customs be transmitted from time to time to the said registrar for the purposes of this act; and every such owner or master of any ship as aforesaid who shall refuse or willfully neglect to deliver or cause to be delivered any such list or account as by this act is required, shall for every such refusal or neglect forfeit and pay the sum of twenty-five pounds.

Lists to be required, and transmitted to the registrar.

Penalty on the master for neglect.

XXV. And in order that due care may be taken of the effects of British seamen dying in foreign parts, and that a proper disposition may be made thereof, be it further enacted, That whenever a British seaman being abroad shall die elsewhere than on board a British ship, leaving any money or effects within the limits of any British consulate, it shall be lawful for his Majesty's consul there and he is hereby required to claim and take charge of all such money and effects, and to dispose of the said effects for the benefit of the next of kin of the deceased or other person who may be by law entitled to the same; and in case no claim shall be made to the same within three calendar months after the death of such seaman, the said consul shall, after abating the amount of any expences which shall have been incurred in getting in the assets of the deceased, remit the balance of all such monies which either have already arisen or shall hereafter arise by the means aforesaid to the president and governors of the corporation "For the Relief and Support of sick, maimed, and disabled Seamen, and of the Widow and Children of such as shall be killed, slain, or drowned, in the Merchant Service," to be by such president and governors paid over and disposed of in the same manner and under the same regulations as are provided by the said recited act of the last session of parliament with respect to the wages of seamen dying on board merchant ships; and in case any seaman so dying as last mentioned shall leave

As to the disposal of the effects of seamen dying abroad.

No. XXX. on board the ship to which he shall belong any monies, clothes, or other effects, and the same shall not be claimed within one month after the ship's return to the united kingdom by the executor or administrator of the deceased, then the master of the said ship shall and he is hereby required to deposit the same or the proceeds arising therefrom with the president and governors aforesaid, to be by them disposed of in the same manner as is provided by the said act with respect to the wages of deceased seamen.

Parish boys
may be put out
apprentices in
the sea service.

XXVI. And whereas the giving due encouragement to such of the youth of the united kingdom as shall voluntarily betake themselves to the sea service, and obliging others to do so who by reason of their own or their parent's poverty are destitute of the means of obtaining subsistence and employment, will not only greatly tend to the increase of able and experienced seamen, as well for the service of the royal navy as for carrying on the commerce of his Majesty's subjects, but will likewise provide them with employment, and thus materially diminish the burthen of expence cast upon parishes by their maintenance; be it therefore enacted, That it shall be lawful for the overseers of the poor or other persons having the authority of overseers of the poor of any parish, township, or place in the united kingdom, or in whom the duty of overseers or guardians of the poor shall or may be vested, and they are hereby empowered, to bind by indenture and put out any boy having attained the age of thirteen years, and of sufficient health and strength, who or whose parent or parents is or are chargeable to or maintained by any such parish or township, or who shall beg for alms therein, with his consent but not otherwise, an apprentice in the sea service to any of his Majesty's subjects being the master or owner of any ship registered in any port of the united kingdom, for so long time and until such boys shall respectively attain the age of twenty-one years, which binding shall be as effectual in the law to all intents and purposes as if such boy had been bound by virtue of any statute now in force respecting the binding of parish apprentices, or as if such boy were of full age and had bound himself an apprentice, and notwithstanding the residence of the master or owner to whom he may be bound shall be more than forty miles distant from such parish or place: Provided always, That every such binding shall be made in the presence of two justices of the peace acting for the county, riding, division, city, borough, or place within which such parish or township shall be situate, which justices shall execute the indenture in testimony of their having been satisfied that such boy hath attained the age and is of sufficient health and strength as required by this act; and to the end that the period when the service under such indenture shall expire may the more certainly appear, the age of every such boy shall be inserted in his indenture, the same being truly taken from a copy of the entry of his baptism in the register book of the parish in which he was born (where the same can be obtained), which copy shall be given and attested by the officiating minister of such parish without fee or reward; and in cases where no such entry of baptism can be found the justices aforesaid shall inform themselves as fully as they can of such boy's age, and from such information shall insert the same in his said indenture, and the age of every such boy so inserted therein shall (in relation to the continuance of his service) be taken to be his true age without any further proof thereof.

Parish apprentices may be turned over to the sea service.

XXVII. That it shall be lawful for any master or person to whom any poor parish apprentice shall have been or shall be hereafter bound to a service on shore according to the statutes already in force relating to such apprentices, or for the executors or administrators, or, there being none such, for the widow of any such deceased master, with the concurrence of two or more justices of the peace residing in or near to the place where such poor boy shall have been bound apprentice, to assign and turn over such poor boy, with his consent but not otherwise, apprentice to any master or owner of any ship not having her complement

of apprentices as herein-after required, to be employed by such master or owner in the sea service during the period then remaining unexpired of his apprenticeship. No. XXX. 5 & 6 W. 4, c. 19.

XXVIII. That in the event of the death of the master of any such poor or parish apprentice to the sea service, it shall be lawful for the widow or the executor or administrator of such deceased master to assign the indenture of any such apprentice for the residue of the term then unexpired therein to any master or owner of any such ship not having the complement of apprentices as herein-after required; all which assignments, if executed within the limits of the port of London, shall be attested by the said registrar or one of his assistants or clerks, and if at any other port shall be attested by the collector or comptroller of the customs of such port. Indentures may be assigned on the death of the master.

XXIX. That such overseers or other persons as aforesaid shall cause the indentures of apprenticeship to be prepared and transmitted in duplicate, if the master or owner of the ship to whom such apprentice is to be bound shall be or reside within the limits of the port of London, to the said registrar, and if at any other port to the collector or comptroller of the customs at such port; and the said overseers or other persons as aforesaid shall cause each such poor boy to be conducted and conveyed to such port or place by the constable and at the expence of the parish or township sending him thither, and shall also, upon the execution by the master of the counterpart of the indentures, cause to be paid down to the master the sum of five pounds, to be expended in providing such boy with necessary sea clothing and bedding; which sum, as well as the expences to be incurred in the conveyance of the boy as aforesaid, shall, when paid, be allowed to them in their accounts of monies expended in relation to the poor. Parish officers to prepare indentures. Constable to convey the apprentice.

XXX. That the counterparts of all such indentures shall, if the master shall be or reside within the limits of the port of London, be executed in the presence of and attested by the said registrar or one of his assistants or clerks, and if at any other port by the collector or comptroller of the customs at such port, and also in both cases by the constable or other officer who shall convey such apprentices thither, and such indentures shall bear date respectively on the days on which they are executed; and the constable on his return shall deliver such counterparts to the overseers or other persons as aforesaid, to be by them registered and preserved. How counterparts of indentures to be attested.

XXXI. That the master of every ship belonging to any subject of the united kingdom, and of the burthen of eighty tons and upwards, shall have on board thereof, at the time of clearing out from any port of the united kingdom, one apprentice or more, in the following proportions to the number of tons of his ship's admeasurement, according to the certificate of registry; that is to say, every ship of eighty tons and under two hundred tons shall have one apprentice at the least, every ship of two hundred tons and under four hundred tons shall have two apprentices at the least, every ship of four hundred tons and under five hundred tons shall have three apprentices at the least, every ship of five hundred tons and under seven hundred tons shall have four apprentices at the least, and every ship of seven hundred tons and upwards shall have five apprentices at the least, all of whom at the period of their being bound respectively shall have been under seventeen years of age, and shall have been duly bound for the term of four years at the least; and if any such master shall neglect to have on board his ship the number of apprentices as hereby required he shall for every such offence forfeit and pay the sum of ten pounds in respect of each apprentice so deficient. Every ship to have apprentices according to her tonnage. Penalty for deficiency of apprentices.

XXXII. That no apprentice bound or assigned pursuant to this act, nor any master or owner in respect or any such apprentice, shall be exempt from liable to the payment of any contribution towards the support of any hospital or institution. Contributions for hospitals.

XXXIII. That the said registrar in London and the collector and

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Assignments to
be registered.

Indentures of
apprentices to
be registered.

Assignments to
be registered.

Agreements
and indentures
of apprentice
exempt from
stamp duty.

Penalty on
masters ne-
glecting to
register inden-
tures; and for
suffering ap-
prentices to
quit their ser-
vice.

Justices to de-
termine com-
plaints.

comptroller of the customs at each other port shall, in a book to be kept for that purpose, cause to be entered from time to time all such indentures and assignments of parish apprentices as aforesaid, specifying therein the dates thereof, the names and ages of the apprentices, the parishes or places from whence sent, the names and residences of the masters to whom bound or assigned, and the names, ports, and burthen of the respective ships to which such masters belong, and shall make and subscribe on each indenture or assignment respectively an indorsement purporting that the same hath been duly registered pursuant to this act: and every such collector and comptroller shall also at the end of each quarter of the year transmit a list of the indentures and assignments so registered by him within the preceding quarter, containing all the particulars aforesaid, to the said registrar, for the purposes of this act.

XXXIV. That in every case of a person voluntarily binding himself apprentice to the sea service the indentures to be executed on such occasions shall be registered in a book to be kept for that purpose by the said registrar in London and by the collector and comptroller of the customs at each other port at which the indenture shall be executed, in which book shall be expressed the dates of the several indentures, the names and ages of the apprentices, the names and residence of their masters, and (if known) the names, port, and burthen of the several ships on board which they are respectively to serve; and such registrar and collector or comptroller respectively shall indorse and subscribe upon each indenture a certificate purporting that the same hath been duly registered pursuant to this act, and the said collector and comptroller shall also at the end of each quarter of the year transmit a list of the indentures so registered by them within the preceding quarter, containing all the particulars aforesaid, to the said registrar, for the purposes of this act; and that it shall be lawful for the master, or in case of his death his executor or administrator, with the consent of the apprentice if of the age of seventeen years or upwards, and if under that age with the consent of his parent or guardian, to assign or transfer the indenture of any such apprentice to any other person, who may be the master or owner of any registered ship; and all such voluntary apprentices may, during the term for which they shall be bound, be employed in any ship of which the master of any such apprentice may be the master or owner: Provided always, That every such assignment shall be registered and indorsed by the said registrar, or by the collector or comptroller of the customs at the port where the master shall be resident, or to which his ship shall belong, in which latter case the said collector or comptroller shall notify the same to the said registrar as is herein-before provided with regard to the indenture of such apprentice.

XXXV. That all agreements with the crew of a ship made in pursuance of and in conformity with this act, and all indentures of parish and voluntary apprentices to the sea service, and all counterparts and assignments of such indentures to be respectively executed after the passing of this act, shall be wholly exempt from stamp duty.

XXXVI. That if any master to whom any apprentice mentioned in this act shall be bound or assigned shall neglect to cause the indenture or the assignment thereof (as the case may be) to be registered as required by this act, or shall, after the ship shall have cleared outwards on the voyage upon which such ship may be bound, suffer his apprentice to quit his service (not entering into that of his Majesty), except in case of death, desertion, sickness, or other unavoidable cause, to be certified in the log book of the ship, every such master shall for every such offence forfeit and pay the sum of ten pounds.

XXXVII. That any two or more justices of the peace residing at or near to any port at which any ship as aforesaid, having on board thereof any sea apprentice, shall at any time arrive, shall have full power and authority to inquire into and examine, hear and determine, all claims of

apprentices upon their masters under their indentures, and all complaints of hard or ill usage exercised by their respective masters towards any such their apprentices, or of misbehaviour on the part of any such apprentice, and to make such orders therein as they are empowered by law to do in other cases between masters and apprentices.

XXXVIII. And whereas by an act passed in the ninth year of the reign of his late Majesty king George the fourth, for consolidating and amending the statutes in England relative to offences against the person, a summary jurisdiction is provided for the punishment of persons guilty of common assaults and batteries: And whereas it is expedient that the provisions of the said act should be extended to similar offences committed on board merchant ships as herein-after provided; be it therefore further enacted, That in the case of any assault or battery which shall after the commencement of this act be committed on board any merchant ship belonging to any subject of the united kingdom in any place at sea, or out of his Majesty's dominions, it shall be lawful for any two justices of the peace in any part of his Majesty's dominions, upon complaint of the party aggrieved, to hear and determine any such complaint, and to proceed and make such adjudication thereon as by the said act any two justices are empowered to do, subject however to such provisos and limitations as are contained in the said act with respect to the cases of assault and battery therein mentioned; and the fine or forfeiture to be imposed in any such case shall be payable to the merchant seaman's hospital or institution at or nearest to the port or place where such adjudication shall be made.

XXXIX. That no parish or voluntary apprentice to the sea service shall be at liberty to enter into the naval service of his Majesty during the period of his apprenticeship without the consent of his master; but if nevertheless he shall voluntarily enter on board any of his Majesty's ships of war, and shall be allowed by his master to continue therein, such master, in case he shall give notice to the secretary of the admiralty of his consent to his apprentice remaining in his Majesty's service during the residue of the term of his apprenticeship, shall, upon the production of his indenture, be entitled, at the time of paying off the ship, to receive to his own use any balance of wages that may be then due and payable to any such apprentice up to the period of the expiration of his indenture.

XL. And whereas great mischiefs have arisen from masters of merchant ships leaving seamen in foreign parts, who have been thus reduced to distress, and thereby tempted to become pirates, or otherwise misconduct themselves, and it is expedient to amend and enlarge the law in this behalf; be it therefore further enacted, That if any master of a ship belonging to any subject of the united kingdom shall force on shore and leave behind, or shall otherwise wilfully and wrongfully leave behind on shore or at sea, in any place in or out of his Majesty's dominions, any person belonging to his crew, before the return to or arrival of such ship in the united kingdom, or before the completion of the voyage or voyages for which such person shall have been engaged, whether such person shall have formed part of the original crew or not, every person so offending shall be deemed guilty of a misdemeanor, and shall suffer such punishment by fine or imprisonment or both as to the court before which he shall be convicted shall seem meet; and the said offence may be prosecuted by information at the suit of the attorney-general on behalf of his Majesty, or by indictment or other proceeding in any court having criminal jurisdiction in his Majesty's dominions at home or abroad, where such master or other person as aforesaid shall happen to be, although the place where the offence may be therein averred to have been committed (which averment is hereby required to be substantially according to the fact) shall appear to be out of the ordinary local jurisdiction of such court; and such court is hereby authorized to issue a commission or commissions for the examination of any witnesses who may be absent or out of the jurisdiction of the

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Common assaults may be summarily punished by two justices.

Masters entitled to receive the wages of apprentices entering into the navy.

Forcing on shore or leaving behind any person belonging to the crew deemed a misdemeanor.

Jurisdiction of courts for trying such misdemeanors.

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Seamen not to be discharged abroad, without sanction of one of certain functionaries.

court; and at the trial the depositions taken under such commission or commissions, if such witnesses shall be then absent, shall be received in evidence.

XLi. That no such master shall discharge any individual person of his crew, whether British subject or foreigner, at any of his Majesty's colonies or plantations, without the previous sanction in writing of the governor, lieutenant governor, secretary, or other officer appointed in that behalf by the government there, or in the absence of all such authorities at or near to the port or place at which the ship shall be then lying, then of the chief officer of customs of such colony or plantation resident at or near to such port or place; nor shall he discharge any such person at any other place abroad without the like previous sanction in writing of his Majesty's minister, consul, or vice-consul there, or in the absence of any such functionary, then of two respectable merchants resident there; all which said functionaries respectively are hereby authorized and required, and all which said merchants are hereby authorized, in a summary way to inquire into the grounds of any such proposed discharge by examination on oath, and thereupon to grant or refuse such sanction according to their discretion, having regard to the objects of this act.

Nor to be left abroad on the plea of incapacity to proceed, desertion, or disappearance, without a similar authority.

XLII. That no such master shall be at liberty to leave behind at any place abroad, either on shore or at sea, any person of his crew as aforesaid, on the plea of such person not being in a condition to proceed on the voyage, or having deserted from the ship, or otherwise disappeared, unless upon a previous certificate in writing of one of such functionaries or merchants as aforesaid, if there be any such at or within a reasonable distance from the place where the ship shall then be, if there be time to procure the same, certifying that such person is not in such condition, or has deserted or disappeared, and cannot be brought back; and all such functionaries as aforesaid are hereby authorized and required, on the application of any such master, to inquire by examination on oath into the circumstances, and to give or refuse such certificate according to the result of such examination.

If any of the crew are left behind, the proof of sanction or authority shall be upon the master.

XLIII. That if any such master shall leave behind any one of his crew as aforesaid contrary to this act, in any indictment or proceeding the proof of his having obtained such sanction or certificate as aforesaid shall be upon him, it being the intention hereof that, except in the case of entering into his Majesty's naval service, no person of the crew shall be discharged, either with or without his consent, in any place abroad where such functionary can be found, unless he shall have given such sanction thereto.

Seamen when allowed to be left behind, to be paid their wages.

XLIV. That every such master who shall leave any person of his crew as aforesaid on shore at any place abroad, under a certificate of his not being in a condition to proceed on the voyage, shall deliver to one of the said functionaries, or if there be none such to any two respectable merchants there, or if there be but one then to such one merchant, a just and true account of the wages due to such person, and pay the same to the seaman either in money or by a bill drawn upon the owner of his ship; and if by bill, then such functionary or merchant, according to the case, is hereby authorized and required by certificate indorsed on such bill to testify that the same is drawn according to this act for money due on account of wages of a seaman, or to that effect; and any such master who shall deliver a false account, or refuse or neglect to deliver a just and true account of the wages due to such person, and to pay the amount thereof in money or by bill as aforesaid, shall for every such offence forfeit and pay, in addition to the wages due, the penal sum of twenty-five pounds.

Act not to extend to prevent seamen from entering into the navy.

XLV. Provided always, That nothing in this act or in any agreement contained shall be deemed to extend to prevent any seaman or person belonging to any merchant ship whatever from entering or being received into the naval service of his Majesty, nor shall any such entry be deemed a desertion from the merchant ship, nor incur any penalty or

forfeiture whatever, either of wages, clothes, or effects, or other matter or thing, notwithstanding any agreement made to the contrary hereof; and all masters and owners of ships are strictly prohibited from introducing into any ship's articles or agreement with the crew any clause or matter by which any penalty or forfeiture of any kind is agreed to be incurred by a seaman upon his entry into his Majesty's service.

No. XXX.
5 & 6 W. 4.
c. 19.

XLVI. That when any seaman shall quit a merchant ship in order to enter into his Majesty's naval service, and shall thereupon be actually received into such service, not having previously committed any act amounting to and treated by the master as a total desertion, he shall be entitled immediately upon such entry to the delivery up of all his clothes and effects on board such merchant ship, and (in case the ship shall have earned freight) to receive from the master the payment of the proportionate amount of his wages up to the period of such entry, either in money or by a bill on the owner thereof; all which clothes, effects, money, and bill such master is hereby required to deliver up to him accordingly, under a penalty of twenty-five pounds for any refusal or neglect, to be recovered, with full costs of suit, by such seaman: Provided always, that if no freight shall have been earned at the time of such entry, then the master shall and he is hereby required to give the seaman so entering a bill upon the owner for his wages to the period of such entry, payable on the ship's safe arrival at her destined port; but in case the master shall have no means of ascertaining the balance justly due he shall make out and deliver to such seaman a certificate of the period of his services and the rate of wages he is entitled to, producing at the same time to the commanding or other officer of his Majesty's ship the agreement entered into with the seaman for the voyage; and every such master, upon the delivery up of such clothes and effects and the settlement of such wages in manner herein mentioned, shall be entitled to receive from the officer in command of the ship of his Majesty into which such seaman shall have entered a certificate signed by the said officer, which such officer is hereby required to give upon the request of the master, testifying that such seaman has entered into such ship of his Majesty to serve, as proof that the master had not parted with the seaman contrary to the provisions of this act.

Upon entry of seamen into the navy from merchant ships they shall be entitled to the immediate delivery up of their clothes and payment of any wages that may be due.

XLVII. That in all cases where any master shall have forced on shore or left behind any person against the provisions of this act, and such person shall become distressed and be relieved under the provisions of an act passed in the eleventh year of the reign of his late Majesty king George the fourth, for amending and consolidating the laws relating to the pay of the royal navy, or under any act hereafter, to be passed, then, in addition to the wages due from and the penalties imposed on such master, his Majesty shall be entitled to sue such master or the owner of the ship, at the option of the commissioners for executing the office of lord high admiral of the united kingdom, for all the charges and expences which shall have been incurred on the subsistence, necessary clothing, and conveyance home of any such person, as so much money paid, laid out, and expended to the use of the defendant, which, together with full costs of suit, may be recovered in the same manner as other debts due to his Majesty are recoverable in any court having jurisdiction in cases of debts due to the crown; and in any proceeding for that purpose proof of the account furnished to the said commissioners by any one of such functionaries, or by such two merchants or one merchant, according to the case, as provided by the said act of the eleventh year of king George the fourth, shall, together with proof of payment by the said commissioners or by the treasurer of the navy of the charges incurred on account of any such person, be sufficient evidence that such person was relieved and conveyed home according to the intent of the said act, at his Majesty's expence; and the court in which any proceeding for the recovery of the said money shall be instituted is hereby authorized to issue a commission or commissions for the

Power to his Majesty to sue for the amount advanced for the relief of seamen left abroad.

No. XXX.
5 & 6 W. 4,
c. 19.

Ship's agree-
ment on arrival
at a foreign
port to be de-
posited with the
consul.

Penalty for
neglect.

No seaman to
be shipped at a
foreign port
without the
privity of the
consul.

Masters to pro-
duce agree-
ments to offi-
cers of king's
ships.

Registrar and
officers of cus-
toms empow-
ered to require
production of
the agreement
and muster
roll.

Definition of
the terms mas-
ter, seaman,
ship, and
owner.

examination of witnesses abroad, and the depositions taken under such commission or commissions shall be received as evidence.

XLVIII. And in order the more effectually to secure a compliance with the provisions of this act, be it further enacted, That every master of a ship belonging to any subject of his Majesty, on his arrival at any foreign port where there shall be a British consul or vice-consul, shall deliver to such consul or vice-consul the agreement with his ship's crew, to be by such consul or vice-consul preserved during the ship's stay there, and to be returned to the master before his leaving the port, without any fee or charge being made for the same; and if any such master shall refuse or neglect to deliver any such agreement to the consul or vice-consul, as is hereby required, he shall for every such offence forfeit and pay the sum of twenty-five pounds.

XLIX. That during the ship's stay at any such foreign port no seaman shall be shipped by any such master except with the privity of such consul or vice-consul, to be indorsed or certified on the agreement, under a penalty of twenty-five pounds to be forfeited by any such master for every seaman who shall be so shipped in breach of this act.

L. That the master of every ship belonging to any subject of his Majesty as aforesaid shall and he is hereby required to produce and show the muster roll of the ship and the agreement with his crew to the captain, commander, or other commissioned officer of any of his Majesty's ships requiring a production and sight thereof; and that it shall be lawful for any such officer in his Majesty's naval service, if he shall think it necessary so to do, to muster the crew and passengers (if any) of any ship belonging to any subject as aforesaid, in order to be satisfied that the provisions of this act and of any other act by which the crews of merchant ships are regulated, and the laws relating to navigation with respect to the crews of merchant ships, have been duly complied with; and if any such master shall, upon being required so to do by any such officer, neglect or refuse to produce such muster roll or such agreement, or shall obstruct any such officer in the execution of his duty in mustering the said crew or passengers, or shall produce any false muster roll, he shall for every such offence forfeit and pay the sum of twenty-five pounds.

LI. That for the better carrying into effect the purposes of this act it shall be lawful for the said registrar and his assistants, and also for the respective collectors or other chief officers of the customs, at the several ports of the united kingdom and of the British possessions abroad, to demand from the master of every ship hereby required to enter into an agreement with his crew the production of the muster roll of the ship and also of such agreement, with liberty to take a copy of either or both, and to muster the crew and apprentices of such ship, for the purpose of ascertaining whether the provisions of this act and of the laws relating to navigation have been complied with; and if any such master, on such demand being made, shall refuse or neglect to produce such muster roll or agreement, or shall refuse to allow a copy of either document to be taken, or shall refuse to permit or shall prevent his crew and apprentices from being so mustered, he shall for every such neglect, refusal, or offence forfeit and pay the sum of fifty pounds.

LII. And to avoid doubts in the construction of this act, be it further enacted, That every person having the charge or command of any ship belonging to any subject of the united kingdom shall, within the meaning and for the purposes of this act, be deemed and taken to be the master of such ship; and that every person (apprentices excepted) who shall be employed or engaged to serve in any capacity on board the same, shall in like manner be deemed and taken to be a seaman within the meaning and for the purposes of this act; and that the term "ship," as used in this act, shall be taken and understood to comprehend every description of vessel navigating on the sea; and that the term "owner,"

as applied to a ship, shall be understood to comprehend all the several persons, if more than one, to whom the ship shall belong; and that all steam and other vessels employed in carrying passengers or goods shall be deemed trading ships within the meaning and for the purposes of this act.

No. XXX.
5 & 6 W. 4,
c. 19.

LIII. That all penalties and forfeitures imposed by this act, and for the recovery whereof no specific mode is herein-before provided, shall and may be recovered, with costs of suit, in manner following; (that is to say,) all penalties and forfeitures not exceeding twenty pounds shall be recoverable at the suit of any person by information and summary proceeding before any one or more justice or justices of the peace in any part of his Majesty's dominions, residing near to the place where the offence shall be committed or where the offender shall be, which justice or justices shall have full power to levy the amount of any such penalty or forfeiture and costs by distress and sale of the offender's goods, or by commitment of the offender for nonpayment of the amount; and all penalties and forfeitures exceeding twenty pounds shall and may be recovered, with costs of suit, in any of his Majesty's courts of record at Westminster, Edinburgh, or Dublin, or in the colonies, at the suit of his Majesty's attorney general or other chief law officer of the crown in any part of his Majesty's dominions other than in Scotland, and if in Scotland at the suit of the lord advocate; and that all penalties and forfeitures mentioned in this act for which no specific application is herein-before provided shall, when recovered, be paid and applied in manner following; (that is to say,) one moiety of every such penalty shall be paid to the informer or person upon whose discovery or information the same shall be recovered, and the residue shall be divided between Greenwich hospital and the merchant seamen's hospital or institution at the port to which the ship shall belong, and if there shall be none such at the said port, then the whole of the said residue shall be paid to Greenwich hospital: Provided always, That it shall be lawful for the court before which or the justice or justices before whom any proceedings shall be instituted for the recovery of any pecuniary penalty imposed by this act to mitigate or reduce such penalty as to such court or justices respectively shall appear just and reasonable, in such manner, however, that no such penalty shall be reduced below one half of its original amount: And provided also, That all proceedings so to be instituted shall be commenced within two years next after the commission of the offence, if the same shall have been committed at or beyond the Cape of Good Hope or Cape Horn, or within one year if committed on the European side of those limits, or within six calendar months after the return of the offender or the complaining party to the united kingdom.

Recovery of
penalties.

Application of
forfeitures.

LIV. Provided always, That this act shall not extend or apply to any ship registered in or belonging to any British colony having a legislative assembly, or to the crew of any such ship, while such ship shall be within the precincts of such colony; any thing herein-before contained to the contrary in anywise notwithstanding.

As to ships
belonging to
any British
colony having
a legislature.

SCHEDULES to which this ACT refers.

SCHEDULE (A.)

AN Agreement made, pursuant to the Directions of an Act of Parliament passed in the Sixth Year of the Reign of His Majesty King William the Fourth, between the Master of the Ship of the Port of _____ and of the _____ tons, and the several Persons whose Names are subscribed hereto.

It is agreed by and on the Part of the said Persons, and they severally hereby engage, to serve on board the said Ship in the several capacities against their respective Names expressed, on a Voyage from the Port of _____ to _____ [here the intended Voyage is to be described as nearly as can be done, and the Places at which it is intended the Ship shall touch, or if that cannot be done, the Nature of the Voyage in which she is to be employed,] and back to the Port of _____ and the said Crew further engage to conduct themselves in an orderly, faithful, honest, careful, and sober Manner, and to be at all Times diligent in their respective Duties and Stations, and to be obedient to the lawful Commands of the Master in every thing relating to the said Ship, and the Materials, Stores, and Cargo thereof, whether on board such Ship, in Boats, or on Shore [here may be inserted any other Clauses which the Parties may think proper to be introduced into the Agreement, provided that the same be not contrary to or inconsistent with the Provisions and Spirit of this Act.] In consideration of which Services to be duly, honestly, carefully, and faithfully performed, the said Master doth hereby promise and agree to pay to the said Crew, by way of Compensation or Wages, the Amount against their Names respectively expressed. In witness whereof the said Parties have hereto subscribed their Names on the Days against their respective Signatures mentioned.

Place and Time of Entry.			Men's Name.	Age.	Place of Birth.	Quality.	Amount of Wages per Calendar Month, Share, or Voyage.	Witness to Signature.	Name of Ship in which the Seaman last served.
Day.	Month.	Year.							

Note.—Any Embezzlement or wilful or negligent Loss or Destruction of any Part of the Ship's Cargo or Stores may be made good to the owner out of the Wages (so far as they will extend) of the Seaman guilty of the same; and if any Seaman shall enter himself as qualified for a duty to which he shall prove to be not competent, he will be subject to a Reduction of the Rate of Wages hereby agreed for in proportion to his incompetency.

SCHEDULE (B.)

AN Agreement made, pursuant to the Directions of an Act of Parliament passed in the Sixth Year of the Reign of His Majesty King William the Fourth, between the Master of the Ship _____ of the Port of _____ and of the Burthen of _____ Tons, and the several Persons whose Names are subscribed hereto.

It is agreed by and on the Part of the said Persons, and they severally hereby engage, to serve on board the said ship in the said several Capacities against their respective Names expressed, which Ship is to be employed in [*here the Nature of the Ship's employment is to be described, whether in the Fisheries, on the Coast, or in trading from one Part of the United Kingdom to another, or to any of the Islands of Jersey, Guernsey, Alderney, Sark, and Man, or to any Port on the Continent of Europe between the River Elbe inclusive and Brest*]; and the said Crew further engage to conduct themselves in an orderly, faithful, honest, careful, and sober Manner, and to be at all Times diligent in their respective Duties and Stations, and to be obedient to the lawful Commands of the Master in every thing relating to the said Ship, and the Materials, Stores, and Cargo thereof, whether on board such Ship, in Boats, or on Shore [*here may be inserted any other Clauses which the Parties may think proper to be introduced into the Agreement, provided that the same be not contrary to or inconsistent with the Provisions and Spirit of this Act.*] In consideration of which Services, to be duly, honestly, carefully, and faithfully performed, the said Master doth hereby promise to pay to the said Crew, by way of Compensation or Wages, the Amount against their Names respectively expressed: Provided always, and it is hereby declared, that no Seaman shall be entitled to his Discharge from the Ship during any Voyage in which she may be engaged, nor at any other than a Port in the United Kingdom. In witness whereof the said Parties have hereto subscribed their Names on the Days against their respective Signatures mentioned.

Place and Time of Entry.			Men's Name.	Age.	Place of Birth.	Quality.	Amount of Wages per Calendar Month, Share, or Voyage.	Witness to Signature.	Name of Ship in which the Seaman last served.
Day.	Month.	Year.							

Note.—Any Embezzlement or wilful or negligent Loss or Destruction of any Part of the Ship's Cargo or Stores may be made good to the Owner out of the Wages (so far as they will extend) of the Seaman guilty of the same; and if any Seaman shall enter himself as qualified for a Duty to which he shall prove to be not competent, he will be subject to a Reduction of the Rate of Wages hereby agreed for in proportion to his Incompetency.

SCHEDULE (C.)

Ship of the Port of _____ whereof _____ was Master.

A List of the Crew (including the Master and Apprentices) at the period of her sailing from the Port of _____ in the United Kingdom, from which she took her first Departure on her Voyage to _____ and of the Men who joined the Ship subsequent to such Departure and until her Return to the Port of _____ being her Port of destination in the United Kingdom.

Name.	Age.	Place of Birth.	Quality.	Ship in which he last served.	Date of joining the Ship.	Place where.	Time of Death or leaving the Ship.	Place where.	How disposed of.

Note.—If any one of the Crew has entered His Majesty's Service, the Name of the King's Ship in which he entered must be stated in the Account under the Head of "How disposed of."

Note.—This List, to be filled up and being signed by the Master, is to be delivered by him to the Collector or Comptroller of the Customs, on reporting his Ship Inwards, on her Arrival at her Port of Destination in the United Kingdom.

SCHEDULE (D.)

AN Account of the Voyages in which the Ship _____ of _____ has been engaged in the Half Year commencing on the _____ Day of _____ and ending on the _____ Day of _____ One thousand eight hundred and _____ and of all the Persons (Master and Apprentices included) who have belonged to such Ship during that period.

ACCOUNT OF THE VOYAGES.

[Here the several Voyages and the Periods of such Voyages are to be described.]

ACCOUNT OF THE CREW.

Name.	Age.	Place of Birth.	Quality.	Ship in which he last served.	Date of joining the Ship.	Place where.	Time of Death or leaving the Ship.	Place where.	How disposed of.

Note.—If any one of the Crew shall have entered His Majesty's Service, the Name of the King's Ship in which he entered must be stated in this Account under the Head of "How disposed of."

Note.—This Account, when filled up, is to be signed by the Owner, and deposited with the Collector or Comptroller of the Customs of the Port to which the Ship shall belong, or with the Registrar of Merchant Seamen in London.

[No. XXXI.] 5 & 6 W. IV. c. 24.—An Act for the Voluntary Enlistment of Seamen, and to make Regulations for more effectually Manning His Majesty's Navy.

[No. XXXII.] 5 & 6 W. IV. c. 53.—An Act to repeal an Act of the Ninth Year of his late Majesty for regulating the Carriage of Passengers in Merchant Vessels from the United Kingdom to the British Possessions on the Continent and Islands of North America; and to make further Provision for regulating the Carriage of Passengers from the United Kingdom. [31st August 1835.]

9 G. 4, c. 21.

Repeal of recited act, except as to penalties incurred, and to rights of action which may have accrued.

No ship to sail with more than three persons on board for every five tons of burthen.

Ships carrying passengers to have a height of five feet and a half between decks.

When only two tiers of berths, the floor of the lower tier to be six inches above the deck.

Regulating the quantity of water and provisions to be carried by

WHEREAS it is expedient to make provision respecting the carriage of passengers from the united kingdom to distant countries, and for that purpose to repeal a certain act passed in the ninth year of the reign of his late Majesty king George the fourth, intituled *An Act to regulate the Carriage of Passengers in Merchants Vessels from the United Kingdom to the Continent and Islands of North America*: Be it therefore enacted, &c., That the said recited act shall be and the same is hereby repealed: Provided nevertheless, That all fines, forfeitures, and penalties to which any person or persons may have become liable under the said act shall and may be sued for, prosecuted, and recovered; and that any right of action which may have accrued to any person or persons by virtue of the said act shall and may be enforced hereafter in such and the same manner in all respects as if this present act had not been made.

II. That no ship carrying passengers from any port or place in the united kingdom, or in the islands of Guernsey, Jersey, Alderney, Sark, or Man, on any voyage to or for any port or place out of Europe, and not being within the Mediterranean sea, shall proceed on her voyage with more persons on board than in the proportion of three persons for every five tons of the registered burthen of such ship, the master and crew being included in and forming a part of such prescribed number; and that no such ship having more than one deck shall carry any passengers upon any such voyage as aforesaid unless she shall be of the height of five feet and a half at the least between decks; and that no such ship having only one deck shall carry any passengers upon any such voyage as aforesaid unless a platform shall be laid beneath such deck in such a manner as to afford a space of the height of at least five feet and a half, and that no such ship shall have more than two tiers of berths; and that no such ship having two tiers of berths shall carry any passengers on any such voyage as aforesaid unless there shall be an interval of six inches at the least between the deck or platform and the floor of the lower tier throughout the whole extent thereof: Provided always, That, whatever may be the tonnage of the ship, no greater number of persons as passengers shall be taken on board than shall be after the rate of one such person for every ten superficial feet of the lower deck or platform unoccupied by goods or stores, not being the personal luggage of such persons, if such ship shall not have to pass the line on her voyage, or after the rate of one such person for every fifteen such clear superficial feet if such ship shall have to pass the line.

III. That no ship carrying passengers on any such voyage as aforesaid shall be cleared out for such voyage from any port in the united kingdom, or in the said islands of Guernsey, Jersey, Alderney, Sark, or Man, unless and until there shall be actually laden and on board such ship good and wholesome provisions for the use and consumption of the

said passengers, over and above the victualling of the crew, to the amount or in the proportion following; that is to say, a supply of pure water to the amount of five gallons to every week of the computed voyage for every passenger on board such ship, such water being carried in tanks or sweet casks, and a supply of bread, biscuit, oatmeal, or bread stuffs to the amount of seven pounds weight, to every week of the computed voyage for every such passenger: Provided always, That to the extent of one-third of such supply, and no more, seven pounds weight of potatoes may be deemed and computed to be equivalent to one pound weight of bread, biscuit, oatmeal, or bread stuffs in the supply of any ship bound to some place in North America: Provided also, That when any ship shall be destined to call at a port or place in the course of her voyage for the purpose of filling up her water, a supply of water at the rate before mentioned for every week of the computed voyage to such port or place of calling shall be deemed to be a compliance with the provisions of this act.

No. XXXII.
5 & 6 W. 4,
c. 53.

IV. That the number of weeks deemed to be necessary for the voyage of any such ship, according to her destination, shall be determined by the following rule of computation; (that is to say,)

Computed
number of
weeks requisite
for voyage of
vessel.

For a voyage to North America, ten weeks:

For a voyage to South America on the Atlantic Ocean, or to the West Coast of Africa, twelve weeks:

For a voyage to the Cape of Good Hope, fifteen weeks:

For a voyage to the Mauritius, eighteen weeks:

For any other voyage, twenty-four weeks.

V. That, before any such ship shall be cleared out for the voyage, the officers of the customs shall survey, or cause to be surveyed by some competent person, the provisions and water herein-before required for the consumption of the passengers, and shall ascertain that the same are in a sweet and good condition, and shall also ascertain that, over and above the same, there is on board an ample supply of water and stores for the victualling of the crew of the ship; and such officers shall also ascertain that the directions herein-before contained in respect of the situations of berths have been complied with.

Officers of cus-
toms to exa-
mine provisions
and water be-
fore departure
of vessel.

VI. That the master of every such ship shall cause a table to be drawn up of the respective prices at which any provisions or stores that may be sold by any person on board to any of the passengers during the voyage are to be supplied; and that a copy of the same, printed or written in a fair and legible manner, shall be affixed in some convenient and conspicuous place on board the said ship for the perusal of all parties, and that the same shall be maintained for continual reference as well during the period in which passengers shall be engaged as during the whole of the voyage; and that no higher prices than are stated in such table shall in any case be charged for such provisions or stores as may be so supplied during the voyage: Provided nevertheless, That nothing herein contained shall be construed as requiring the master of any ship to provide provisions or stores for the purpose of sale to any passengers who may have contracted to victual themselves during the voyage.

A table to be
made of the
prices of pro-
visions to be
sold on board.

VII. That if doubts shall arise whether any ship about to proceed with passengers as aforesaid is sea-worthy, so as to be fit for her intended voyage, and such doubts shall not be removed to the satisfaction of the collector and comptroller of the customs at the port from which such vessel is to be cleared out, it shall be lawful for such collector and comptroller at any time to cause such ship to be surveyed by two competent persons; and if it shall be reported by those persons that such ship is not in their opinion sea-worthy with reference to such voyage, such ship shall not be cleared out unless the contents of such report be

Seaworthiness
of the ship
may be ascer-
tained by sur-
vey.

No. XXXII. disproved to the satisfaction of the commissioners of the customs, or
5 & 6 W. 4, until such ship shall have been rendered sea-worthy.
c. 53.

Copies or abstracts of this act to be kept on board for perusal of passengers.

With every ship carrying 100 passengers a medical practitioner to sail; in every ship carrying a smaller number, medicines of sufficient amount and kind to be carried.

Ships carrying passengers as aforesaid prohibited from exporting spirits, &c. as merchandise.

Master to deliver list of passengers to collector of customs, who shall give to the master a counterpart, to be exhibited to the chief officer of customs at the port of landing.

VIII. That two copies of this act, or abstracts of the same, made, provided, and issued by the authority of the commissioners of the customs, and authenticated by the signature of the collector or comptroller of the customs at the port of clearance of the ship, shall be delivered to the master, on demand, by such collector or comptroller at the time of clearance, and shall be kept on board every ship proceeding with passengers as aforesaid, and that one of such copies or abstracts shall, upon request made at seasonable times to the master of the ship, be produced to any passenger for his perusal.

IX. That no ship carrying passengers in any such voyage as aforesaid to any such port or place as aforesaid, except any port or place in North America, if the number of such passengers shall amount to or exceed one hundred, shall clear out for such voyage from any port in the united kingdom, or in the said islands of Guernsey, Jersey, Alderney, Sark, or Man, unless there shall be rated upon the ship's company, and shall be actually serving on board such ship, some person duly authorized by law to practise in this kingdom as a physician or surgeon or apothecary, and that no such ship shall actually put to sea or proceed on such voyage unless such medical practitioner shall be therein, and shall *bond fide* proceed on such voyage, taking with him a medicine chest, and a proper supply of medicines, instruments, and other things suitable to the intended voyage; and no ship carrying passengers under the provisions of this act shall clear out for any voyage from any such port as aforesaid unless and until there shall be actually laden and on board such ship medicines and other things necessary for the medical treatment of the passengers on board during such intended voyage, and available for that purpose, nor unless such medicines and other things shall be adequate in amount and kind to the probable exigencies of any such voyage; and, together with such medicines and other things, shall also be put on board every such ship previously to her clearing out for any such voyage as aforesaid a certificate under the hands of any two or more such medical practitioners as aforesaid, to the effect that such medicines and other things have been inspected by them, and are, in their judgment, adequate to meet any such probable exigencies as aforesaid.

X. That no ship carrying passengers to any place as aforesaid shall be cleared out if there shall be laden on board such ship by way of stores, over and above the stores proper for the crew of such ship, any quantity of spirits or strong waters beyond one tenth part of such quantity as would, except for this restriction, be allowed by the officers of the customs upon the victualling bill of such ship for the outward voyage only, according to the number of persons going the voyage.

XI. That the master of every ship carrying passengers on any such voyage as aforesaid shall, before clearing out his said ship for such voyage from any port or place in the united kingdom, or in the said islands of Guernsey, Jersey, Alderney, Sark, or Man, deliver to the collector or other principal officer of his Majesty's customs at such port or place, a list in writing, together with a duplicate of the same, specifying, as accurately as may be, the names, ages, and professions or occupations of all and every the passengers on board such ship, with the name of the port or place at which he the said master hath contracted to land each of the said passengers; and such collector or other chief officer of customs shall thereupon deliver to the said master a counterpart of such list signed by him the said collector or other chief officer as aforesaid; and the said master shall exhibit the said counterpart of his said list to the collector or other chief officer of his Majesty's customs at any port or place in his Majesty's possessions, or to his Majesty's consul at any foreign port, at which the said passengers, or any of them, shall be landed, and shall deposit the same with such collector or chief officer of

customs, or such consul, as the case may be, at his final port of discharge in the said possessions.

XII. And for the prevention of frauds which might be practised upon persons emigrating from the united kingdom, be it further enacted, That the master of any ship carrying any passengers as aforesaid shall not, without his or her previous consent, land or put on shore, or cause to be landed or put on shore, any passenger at any port or place other than the port or place at which he may have contracted to land or put such passenger on shore.

No. XXXII
5 & 6 W. 4,
c. 53.

Penalty on
master improp-
erly landing
passengers at
for.

XIII. Provided always, and be it further enacted and declared, That for the purpose and within the meaning of this act two children, each being under the age of fourteen years, but above the age of seven years, or three children, each being under the age of seven years, shall in all cases be computed as one person only; and that children under the age of twelve months shall not be included in the computation of the number of persons.

How children
are to be com-
puted in the
enumeration of
passengers.

XIV. That if any ship shall not actually put to sea and proceed upon any such intended voyage as aforesaid on the day for that purpose appointed in and by any contract made by the owner, master, or charterer of such ship, or by their agent, with any passenger who shall on that day be on board the same, or ready to proceed on such intended voyage, then and in every such case the master of such ship shall pay to each and every such passenger as shall have contracted to victual himself a fine, to be computed at and after the rate of one shilling in respect of each day during which he or she shall be so detained previously to the actual clearing out and final departure of such ship on such voyage, and that the same may be recovered daily; and the master of such ship shall victual each and every such passenger as shall have contracted to be victualled by the ship owner on and from the day which shall be so appointed: Provided always, That no such fine as aforesaid shall be incurred or be payable in respect of any detention of any such vessel which shall be so detained by stress of weather or other unavoidable cause.

Fines in case of
detention.

XV. That at the close of any such voyage as aforesaid every person arriving as a passenger at any port or place shall, during the space of forty-eight hours next after such arrival, be entitled to continue on board such ship, and to be provided for and maintained on board the same in such and the same manner as during such voyage, unless in any case it shall have been expressly stipulated and agreed between any such passenger and the master of such ship that such passenger shall not be entitled to such provision or maintenance during the said period of forty-eight hours, or unless in the ulterior prosecution of her voyage any such ship shall quit any such port or place within the said period of forty-eight hours.

Passengers to
be maintained
for 48 hours
after their
arrival.

XVI. That if any ship carrying passengers on any voyage from any port or place in the united kingdom, or in the islands of Guernsey, Jersey, Alderney, Sark, or Man, on any voyage to or for any port or place out of Europe, and not being in the Mediterranean sea, shall carry any number of passengers exceeding by more than one person in fifty the proportion authorized and allowed by this present act; or if such ship shall not be of the height between decks herein-before required; or if such a platform as herein-before directed shall not be laid and continued throughout the whole duration of any such voyage in such manner as is herein-before required; or if there shall be more than two tiers of berths; or if there shall not be throughout the whole duration of any such voyage such an interval as is herein-before prescribed between the deck and the floor of the lower tier of berths; or if any such ship shall clear out and put to sea not having on board such water and provisions as aforesaid, for the use and consumption of the said passengers, of the kind and to the amount and in the proportion herein-before required; or if a table of the prices of provisions or stores shall not be exhibited as herein-before required; or if any higher prices than are named in such

Penalties in
case of in-
fringement of
the preceding
enactments.

No. XXXII. table shall be charged; or if there shall not be on board any such vessel
 5 & 6 W. 4, such medical practitioner as aforesaid, or such medicines and other
 c. 53. things necessary to the medical treatment of the passengers, as is
 { herein-before required; or if any such ship shall be cleared out before
 such lists of passengers as herein-before mentioned shall have been de-
 livered in manner and form aforesaid to such officer as aforesaid; or if
 any such list shall be wilfully false; or if the copy or abstract of this
 act be not produced as herein-before required; or if any passenger shall
 not be allowed to continue on board such ship in manner herein-before
 provided; or if any passenger shall, without his or her previous con-
 sent, be put on shore at any place other than the place at which the
 master had contracted to land such passenger; the master of any such
 ship shall for and in respect of each and every such offence be liable, on
 such summary conviction as herein-after mentioned; to the payment
 of a fine of not less than five pounds nor more than twenty pounds
 sterling British money.

The right of
 action of pas-
 sengers not to
 be taken away
 or abridged.

Prosecution
 and recovery of
 penalties.

XVII. Provided nevertheless, That nothing herein contained shall
 take away or abridge any right of suit or action which may accrue to
 any passenger in any such ship, or to any other person, in respect of
 the breach or nonperformance of any contract made or entered into be-
 tween or on the behalf of any such passenger or other person, and the
 master, owner or owners of any such ship.

XVIII. That all indictments or informations against any person or
 persons for or in respect of any offences by them committed or alleged
 to have been committed under this act, and that all proceedings for the
 recovery of any fines, penalties, or forfeitures incurred or alleged to have
 been incurred by any person or persons under this act, shall be pre-
 ferred and prosecuted by any person or persons whomsoever, and shall
 be proceeded with and determined before such and the same courts,
 magistrates, and justices of the peace, and in such and the same man-
 ner, and by such and the same persons, and with, under, and subject to
 all such and the same rules, provisions, conditions, and restrictions, as
 in the case of any indictments or informations preferred or proceedings
 taken for or in respect of any offence committed, or for the recovery of
 any fines, penalties, or forfeitures incurred, under any act of parliament
 now in force for the prevention of smuggling, or relating to the cus-
 toms or to trade or navigation: Provided always, That in order to the
 preferring, prosecuting, proceeding with, or determining any such in-
 dictments or informations under this present act, the direction or con-
 sent of the commissioners of customs shall not be necessary or required,
 any thing in such acts of parliament as aforesaid to the contrary in
 anywise notwithstanding.

Masters of ves-
 sels to enter
 into bond
 (without
 stamps) for the
 due perform-
 ance of the
 regulations
 prescribed by
 this act.

XIX. And for the more effectually securing the observance of the
 aforesaid rules, and the payment of the penalties aforesaid; be it fur-
 ther enacted, That before any ship carrying passengers shall clear out
 for any such voyage as aforesaid from any port or place in the united
 kingdom, or in the said islands of Guernsey, Jersey, Alderney, Sark, or
 Man, or to or for any port or place out of Europe, and not being in the
 Mediterranean sea, the master of the said ship shall enter into a bond
 to his Majesty, his heirs and successors, with one good and sufficient
 surety, to be approved by the collector or other chief officer of customs
 at such port, in the sum of one thousand pounds, the condition of which
 bond shall be that the said ship is sea-worthy, and that all and every
 the rules and regulations made and prescribed by this act for the car-
 riage of passengers shall be well and truly performed before and during
 such intended voyage, and that all penalties, fines, and forfeitures
 which the master of such ship may be sentenced or adjudged to pay for
 or in respect of the breach or nonperformance, before or during such
 voyage, of any such rules and regulations, shall be well and truly paid:
 Provided always, That such bond shall be without stamps, and that no
 such bond shall be put in suit, and that no prosecution, suit, action,
 or information shall be brought under or by virtue of this act, or upon

Limitation of
 prosecutions.

or by reason of the breach of any of the provisions thereof, in any of his Majesty's possessions abroad after the expiration of twelve calendar months next succeeding the commencement of any such voyage as aforesaid, nor in the united kingdom or any of the islands before mentioned after the expiration of twelve calendar months next after the return of the master to the port or place from which he sailed on such voyage.

No. XXXII.
5 & 6 W. 4,
c. 53.

XX. That nothing in this act contained shall extend or be construed to extend to ships carrying passengers in cases in which the number of persons, computed in manner herein-before provided, shall not exceed one person for every five tons of the registered burthen of such ship; nor shall any thing in this act contained extend to any ship in the service of the lords commissioners of his Majesty's admiralty, or in the service of his Majesty's postmaster general, or in the service of the East India company.

Exception of particular kinds of ships.

XXI. And be it further enacted and declared, That the Bahama islands, and all places in America southward of the same, shall be deemed to be in South America for the purposes of this act.

Bahamas, &c.
to be deemed
in South
America.

[No. XXXIII.] 5 & 6 W. IV. c. 56.—An Act to regulate the Admeasurement of the Tonnage and Burthen of the Merchant Shipping of the United Kingdom.

[9th September 1835.]

WHEREAS by an act passed in the third and fourth years of the reign of his present Majesty, for the registering of British vessels, certain rules are established for ascertaining the tonnage of ships as well on shore as afloat, and of vessels propelled by steam; and the account of such tonnage, whenever the same shall have been ascertained according to the rules therein prescribed (except in the case of ships admeasured afloat), it is thereby enacted shall be deemed the tonnage of such ships, and shall be repeated in every subsequent registry of such ships, unless any alteration shall have been made in their form and burthen, or unless it be discovered that the tonnage had been erroneously computed: And whereas it is considered that the capacity of a ship is the fairest standard by which to regulate its tonnage, that internal measurements will afford the most accurate and convenient method of ascertaining that capacity, and that the adoption of such a mode of admeasurement will tend to the interests of the ship builder and the owner, as well as to the proper collection of the dues which by law are payable on tonnage; and it is expedient to alter and amend the law in this respect:

3 & 4 W. 4,
c. 55.

Be it therefore enacted, &c., That from and after the commencement of this act so much of the said recited act as establishes rules for ascertaining the tonnage of ships shall be and the same is hereby repealed so far as respects the merchant shipping of the united kingdom to be thereafter registered.

Rules established by recited act for ascertaining tonnage repealed.

II. That from and after the commencement of this act the tonnage of every ship or vessel required by law to be registered shall, previous to her being registered, be measured and ascertained while her hold is clear, and according to the following rule; (that is to say,) divide the length of the upper deck between the afterpart of the stem and the forepart of the stern-post into six equal parts. Depths: At the foremost, the middle, and the aftermost of those points of division, measure in feet and decimal parts of a foot the depths from the under side of the upper deck to the ceiling at the limber strake. In the case of a break in the upper deck, the depths are to be measured from a line stretched in a continuation of the deck. Breadths: Divide each of those three depths into five equal parts, and measure the inside breadths at the following points; *videlicet*, at one fifth and at four fifths from the upper deck of the foremost and aftermost depths, and at two fifths and four

The rule by which tonnage of vessels is to be ascertained.

No. XXXIII. fifths from the upper deck of the midship depth. Length : At half the midship depth measure the length of the vessel from the afterpart of the stem to the forepart of the stern-post ; then to twice the midship depth add the foremost and the aftermost depths for the sum of the depths ; add together the upper and lower breadths at the foremost division, three times the upper breadth, and the lower breadth at the midship division, and the upper and twice the lower breadth at the after division, for the sum of the breadths ; then multiply the sum of the depths by the sum of the breadths, and this product by the length, and divide the final product by three thousand five hundred, which will give the number of tons for register. If the vessel have a poop or half deck, or a break in the upper deck, measure the inside mean length, breadth, and height of such part thereof as may be included within the bulk-head ; multiply these three measurements together, and dividing the product by 92'4, the quotient will be the number of tons to be added to the result as above found. In order to ascertain the tonnage of open vessels, the depths are to be measured from the upper edge of the upper strake.

Tonnage when ascertained to be entered on register.

Mode of ascertaining tonnage of steam vessels.

Length and cubical contents of engine room to be set forth in description of steam vessel.

For ascertaining tonnage of vessels when laden.

Amount of register tonnage to be carved on main

III. That the tonnage or burthen of every ship belonging to the united kingdom, ascertained in the manner herein-before directed, shall, in respect of any such ship which shall be registered after the commencement of this act (except as herein-after excepted), be inserted in the certificate of the registry thereof, and be taken and deemed to be the tonnage or burthen thereof for all the purposes of the said recited act.

IV. Provided always, That in each of the several rules herein-before prescribed, when applied for the purpose of ascertaining the tonnage of any ship or vessel propelled by steam, the tonnage due to the cubical contents of the engine room shall be deducted from the total tonnage of the vessel as determined by either of the rules aforesaid, and the remainder shall be deemed the true register tonnage of the said ship or vessel. The tonnage due to the cubical contents of the engine room shall be determined in the following manner ; that is to say, measure the inside length of the engine room in feet and decimal parts of a foot from the foremost to the aftermost bulk-head, then multiply the said length by the depth of the ship or vessel at the midship division as aforesaid, and the product by the inside breadth at the same division at two fifths of the depth from the deck taken as aforesaid, and divide the last product by 92'4, and the quotient shall be deemed the tonnage due to the cubical contents of the engine room.

V. Provided always, That the tonnage due to the cubical contents of the engine room and also the length of the engine room shall be set forth in the certificate of registry as part of the description of the ship or vessel, and that any alteration of such tonnage due to the cubical contents of the engine room or of such length of the engine room, after registry, shall be deemed to be an alteration requiring registry *de novo* within the meaning of the said act for the registering of ships or vessels.

VI. That for the purpose of ascertaining the tonnage of all such ships, whether belonging to the united kingdom or otherwise, as there shall be occasion to measure while their cargoes are on board, the following rule shall be observed and is hereby established ; (that is to say,) Measure, first, the length on the upper deck between the afterpart of the stem and the forepart of the stern-post ; secondly, the inside breadth on the underside of the upper deck at the middle point of the length ; and, thirdly, the depth from the underside of the upper deck down the pump-well to the skin ; multiply these three dimensions together, and divide the product by one hundred and thirty, and the quotient will be the amount of the register tonnage of such ships.

VII. That the true amount of the register tonnage of every merchant ship or vessel belonging to the united kingdom, to be ascertained according to the rule by this act established in respect of such ships, shall be deeply carved or cut in figures of at least three inches in length

on the main beam of every such ship or vessel, prior to her being registered. No. XXXIII. 5 & 6 W. 4, c. 56.

VIII. Provided always, That nothing herein contained shall extend to alter the present measure of tonnage of any ship or vessel which shall have been registered prior to the commencement of this act, unless in cases where the owners of any such ships shall require to have their tonnage established according to the rule herein-before provided, or unless there shall be occasion to have any such ship admeasured again on account of any alteration which shall have been made in the form or burthen of the same, in which cases only such ships shall be re-admeasured according to the said rule, and their tonnage registered accordingly. Not to alter tonnage of vessels already registered.

IX. That this act shall commence and take effect upon and from the first day of January one thousand eight hundred and thirty-six. Commencement of act.

[No. XXXIV.] 5 & 6 W. IV. c. 66.—An Act to amend the Law relating to the Customs.

[9th September 1835.]

[No. XXXV.] 5 & 6 W. IV. c. 67.—An Act for the improvement of the Navigation of the River Shannon.

PART III.

CLASS III.

INSURANCE. (1)

[By the act for the prevention of smuggling, 3 & 4 W. 4, c. 53, it is enacted, "That every person who by way of insurance or otherwise shall undertake or agree to deliver any goods to be imported from beyond the seas into any port or place in the united kingdom without paying the duties due on such importation, or any prohibited goods, or who in pursuance of such insurance or otherwise shall deliver, or cause to be delivered, any uncustomed or prohibited goods, and every aider or abettor of such person, shall for every such offence forfeit the sum of five hundred pounds over and above any other penalty to which by law he may be liable; and every person who shall agree to pay any money for the insurance or conveyance of such goods, or shall receive or take such goods into his custody or possession, or suffer the same to be so received or taken, shall also forfeit five hundred pounds, over and above any penalty to which by law he may be liable on account of such goods."]

(1) It has been held that to render a policy valid within the meaning of the 14 G. 3, c. 48 [see *Evans's statutes*, 2 vol. part 3, class 3,] the party for whose benefit it is effected must have a pecuniary interest in the life or event insured; and that therefore a policy effected by a father in his own name on the life of his son, he not having any pecuniary interest therein, was void.—*Halford v. Kymer*, 10 B. & C. 724.

No. III.

3 & 4 W. 4,
c. 98.

7 G. 4, c. 46.

Bank of Eng-
land to enjoy
an exclusive
privilege of
banking upon
certain condi-
tions.

During such
privilege, no
banking com-
pany of more
than six per-
sons to issue
notes payable
on demand
within London,
or sixty-five
miles thereof.

Any company
or partnership
may carry on
business of
banking in
London, or
within 65
miles thereof,
upon the terms
herein men-
tioned.

authorities, emoluments, profits, and advantages, and such privileges of exclusive banking as are in the said recited act specified, subject nevertheless to the powers and conditions of redemption, and on the terms in the said act mentioned: And whereas an act passed in the seventh year of the reign of his late Majesty king George the fourth, intituled *An Act for the better regulating co-partnerships of certain bankers in England, and for amending so much of an Act of the Thirty-ninth and Fortieth Years of the Reign of his late Majesty King George the Third, intituled 'An Act for establishing an Agreement with the Governor and Company of the Bank of England for advancing the Sum of Three Millions towards the Supply for the Service of the Year One thousand eight hundred,' as relates to the same:* And whereas it is expedient that certain privileges of exclusive banking should be continued to the said governor and company for a further limited period, upon certain conditions: And whereas the said governor and company of the Bank of England are willing to deduct and allow to the public, from the sums now payable to the said governor and company for the charges of management of the public unredeemed debt, the annual sum herein-after mentioned, and for the period in this act specified, provided the privilege of exclusive banking specified in this act is continued to the said governor and company for the period specified in this act: May it therefore please your Majesty that it may be enacted; and be it enacted, &c., That the said governor and company of the Bank of England shall have and enjoy such exclusive privilege of banking as is given by this act, as a body corporate, for the period and upon the terms and conditions herein-after mentioned, and subject to termination of such exclusive privilege at the time and in the manner in this act specified.

II. That during the continuance of the said privilege, no body politic or corporate, and no society or company, or persons united or to be united in covenants or partnerships, exceeding six persons, shall make or issue in London, or within sixty-five miles thereof, any bill of exchange or promissory note, or engagement for the payment of money on demand, or upon which any person holding the same may obtain payment on demand: Provided always, that nothing herein or in the said recited Act of the seventh year of the reign of his late Majesty king George the fourth contained shall be construed to prevent any body politic or corporate, or any society or company, or incorporated company or corporation, or co-partnership, carrying on and transacting banking business at any greater distance than sixty-five miles from London, and not having any house of business or establishment as bankers in London, or within sixty-five miles thereof, (except as herein-after mentioned,) to make and issue their bills and notes, payable on demand or otherwise, at the place at which the same shall be issued, being more than sixty-five miles from London, and also in London, and to have an agent or agents in London, or at any other place at which such bills or notes shall be made payable for the purpose of payment only, but no such bill or note shall be for any sum less than five pounds, or be re-issued in London, or within sixty-five miles thereof.

III. And whereas the intention of this act is, that the governor and company of the Bank of England should, during the period stated in this act (subject nevertheless to such redemption as is described in this act), continue to hold and enjoy all the exclusive privileges of banking given by the said recited act of the thirty-ninth and fortieth years of the reign of his Majesty king George the third aforesaid, as regulated by the said recited act of the seventh year of his late Majesty king George the fourth, or any prior or subsequent act or acts of parliament, but no other or further exclusive privilege of banking: And whereas doubts have arisen as to the construction of the said acts, and as to the extent of such exclusive privilege; and it is expedient that all such doubts should be removed, be it therefore declared and enacted, That any body politic or corporate, or society, or company, or partnership, although consisting of more than six persons, may carry on the trade or business

of banking in London, or within sixty-five miles thereof, provided that such body politic or corporate, or society, or company, or partnership do not borrow, owe, or take up in England any sum or sums of money on their bills or notes payable on demand, or at any less time than six months from the borrowing thereof, during the continuance of the privileges granted by this act to the said governor and company of the bank of England.

No. III.
3 & 4 W. 4,
c. 98.

IV. Provided always, That from and after the first day of August one thousand eight hundred and thirty-four all promissory notes payable on demand of the governor and company of the Bank of England which shall be issued at any place in that part of the united kingdom called England out of London, where the trade and business of banking shall be carried on for and on behalf of the said governor and company of the bank of England, shall be made payable at the place where such promissory notes shall be issued; and it shall not be lawful for the said governor and company, or any committee, agent, cashier, officer, or servant of the said governor and company, to issue, at any such place out of London, any promissory note payable on demand which shall not be made payable at the place where the same shall be issued, any thing in the said recited act of the seventh year aforesaid to the contrary notwithstanding.

All notes of the bank of England payable on demand which shall be issued out of London shall be payable at the place where issued, &c.

V. That upon one year's notice given within six months after the expiration of ten years from the first day of August one thousand eight hundred and thirty-four, and upon re-payment by parliament to the said governor and company or their successors, of all principal money interest, or annuities which may be due from the public to the said governor and company at the time of the expiration of such notice, in like manner as is herein-after stipulated and provided, in the event of such notice being deferred until after the first day of August one thousand eight hundred and fifty-five, the said exclusive privileges of banking granted by this act shall cease and determine at the expiration of such year's notice; and any vote or resolution of the House of Commons, signified by the speaker of the said house in writing, and delivered at the public office of the said governor and company, or their successors, shall be deemed and adjudged to be a sufficient notice.

Exclusive privileges hereby given to end upon one year's notice given at the end of ten years after August 1834.

What shall be deemed sufficient notice.

VI. That from and after the first day of August one thousand eight hundred and thirty-four, unless and until parliament shall otherwise direct, a tender of a note or notes of the governor and company of the bank of England, expressed to be payable to bearer on demand, shall be a legal tender, to the amount expressed in such note or notes, and shall be taken to be valid as a tender to such amount for all sums above five pounds on all occasions on which any tender of money may be legally made, so long as the bank of England shall continue to pay on demand their said notes in legal coin: Provided always, that no such note or notes shall be deemed a legal tender of payment by the governor and company of the bank of England, or any branch bank of the said governor and company; but the said governor and company are not to become liable or be required to pay and satisfy, at any branch bank of the said governor and company, any note or notes of the said governor and company not made specially payable at such branch bank; but the said governor and company shall be liable to pay and satisfy at the bank of England in London all notes of the said governor and company, or of any branch thereof.

Bank notes to be a legal tender, except at the bank and branch banks.

VII. By s. 7. bills not having more than three months to run, are not to be subject to the usury laws. See the clauses, *post*, Class V. *Usury*.

VIII. That an account of the amount of bullion and securities in the bank of England belonging to the said governor and company, and of notes in circulation, and of deposits in the said bank, shall be transmitted weekly to the chancellor of the exchequer for the time being, and such accounts shall be consolidated at the end of every month, and an average state of the bank accounts of the preceeding three months,

Accounts of bullion, &c. and of notes in circulation to be sent weekly to the chancellor of the chequer

No. III.
3 & 4 W. 4,
c. 98.

Public to pay
the bank one
fourth part of
Capital stock
of the bank
may be re-
duced.

made from such consolidated accounts as aforesaid, shall be published every month in the next succeeding *London Gazette*.

IX. That one-fourth part of the debt of fourteen million six hundred and eighty-six thousand eight hundred pounds, now due from the public to the governor and company of the bank of England, shall and may be repaid to the said governor and company, (1)

X. That a general court of proprietors of the said governor and company of the bank of England shall be held at some time between the passing of this act and the fifth day of October one thousand eight hundred and thirty-four, to determine upon the propriety of dividing and appropriating the sum of three million six hundred thirty-eight thousand two hundred and fifty pounds, out of or by means of the sum to be repaid to the said governor and company as herein-before mentioned, or out of or by means of the fund to be provided for that purpose, amongst the several persons, bodies politic or corporate, who may be proprietors of the capital stock of the said governor and company on the said fifth day of October one thousand eight hundred and thirty-four, and upon the manner and the time for making such division and appropriation, not inconsistent with the provisions for that purpose herein contained; and in case such general court or any adjourned general court, shall determine that it will be proper to make such division, then, but not otherwise, the capital stock of the said governor and company shall be and the same is hereby declared to be reduced from the sum of fourteen million five hundred and fifty-three thousand pounds, of which the same now consists, to the sum of ten millions nine hundred fourteen thousand seven hundred and fifty pounds, making a reduction or difference of three million six hundred and thirty-eight thousand two hundred and fifty pounds capital stock, and such reduction shall take place from and after the said fifth day of October one thousand eight hundred and thirty-four; and thereupon, out of or by means of the sum to be repaid to the said governor and company as herein-before mentioned, or out of or by means of the fund to be provided for that purpose, the sum of three million six hundred and thirty-eight thousand two hundred and fifty pounds sterling, or such proportion of the said fund as shall represent the same, shall be appropriated and divided amongst the several persons, bodies politic or corporate, who may be proprietors of the said sum of fourteen million five hundred and fifty-three thousand pounds bank stock on the said fifth day of October one thousand eight hundred and thirty-four, at the rate of twenty-five pounds sterling for every one hundred pounds of bank stock which such persons, bodies politic and corporate, may then be proprietors of or shall have standing in their respective names in the books kept by the said governor and company for the entry and transfer of such stock, and so in proportion for a greater or lesser sum.

Governor, deputy governor, or directors not to be disqualified by reduction of their share of the capital stock.

XI. Provided always, That the reduction of the share of each proprietor of and in the capital stock of the said governor and company of the bank of England, by the repayment of such one-fourth part thereof, shall not disqualify the present governor, deputy governor, or directors, or any or either of them, or any governor, deputy governor, or director who may be chosen in the room of the present governor, deputy governor, or directors at any time before the general court of the said governor and company to be held between the twenty-fifth day of March and the twenty-fifth day of April one thousand eight hundred and thirty-five: Provided that at the said general court, and from and after the same, no governor, deputy governor, or director of the said corporation shall be capable of being chosen such governor, deputy governor, or director, or shall continue in his or their respective offices,

(1) This payment was provided for by an act passed in the following session 4 & 5 W. 4, c. 80.

unless he or they respectively shall at the time of such choice have, and during such his respective office continue to have, in his and their respective name, in his and their own right, and for his and their own use, the respective sums or shares of and in the capital stock of the said corporation in and by the charter of the said governor and company prescribed as the qualification of governor, deputy governor, and directors respectively.

No. III.
3 & 4 W. 4,
c. 98.

XII. Provided also, That no proprietor shall be disqualified from attending and voting at any general court of the said governor and company, to be held between the said fifth day of October one thousand eight hundred and thirty-four and the twenty-fifth day of April one thousand eight hundred and thirty-five, in consequence of the share of such proprietor of and in the capital stock of the said governor and company having been reduced by such repayment as aforesaid below the sum of five hundred pounds of and in the said capital stock; provided such proprietor had in his own name the full sum of five hundred pounds of and in the said capital stock on the said fifth day of October one thousand eight hundred and thirty-four; nor shall any proprietor be required, between the said fifth day of October one thousand eight hundred and thirty-four and the twenty-fifth day of April one thousand eight hundred and thirty-five, to take the oath of qualification in the said charter.

Proprietors not
to be disqualified.

XIII. That from and after the said first day of August one thousand eight hundred and thirty-four the said governor and company, in consideration of the privileges of exclusive banking given by this act, shall during the continuance of such privileges, but no longer, deduct from the sums now payable to the said governor and company, for the charges of management of the public unredeemed debt, the annual sum of one hundred and twenty thousand pounds, any thing in any act or acts of parliament or agreement to the contrary notwithstanding: Provided always, That such deduction shall in no respect prejudice or affect the right of the said governor and company to be paid for the management of the public debt at the rate and according to the terms provided in an act passed in the forty-eighth year of his late Majesty king George the third, intituled *An Act to authorize the advancing for the public service, upon certain Conditions, a Proportion of the Balance remaining in the Bank of England for Payment of unclaimed Dividends, Annuities, and Lottery Prizes, and for regulating the Allowances to be made for the Management of the National Debt.*

Bank to deduct
the annual sum
of 120,000l.
from sum al-
lowed for ma-
nagement of
national debt.

48 G. 3, c. 4.

XIV. That all the powers, authorities, franchises, privileges, and advantages given or recognized by the said recited act of the thirty-ninth and fortieth years aforesaid, as belonging to or enjoyed by the governor and company of the bank of England, or by any subsequent act or acts of parliament, shall be and the same are hereby declared to be in full force and continued by this act, except so far as the same are altered by this act, subject nevertheless to such redemption upon the terms and conditions following; (that is to say,) that at any time, upon twelve months' notice to be given after the first day of August one thousand eight hundred and fifty-five, and upon repayment by parliament to the said governor and company or their successors of the sum of eleven millions fifteen thousand one hundred pounds, being the debt which will remain due from the public to the said governor and company after the payment of the one fourth of the debt of fourteen millions six hundred and eighty-six thousand eight hundred pounds as herein-before provided, without any deduction, discount, or abatement whatsoever, and upon payment to the said governor and company and their successors of all arrears of the sum of one hundred thousand pounds per annum in the said act of the thirty-ninth and fortieth years aforesaid mentioned, together with the interest or annuities payable upon the said debt or in respect thereof, and also upon repayment of all the principal and interest which shall be owing unto the said governor and company

Provisions of
act of
39 & 40 G. 3,
to remain in
force, except as
altered by this
act.

No. III.
3 & 4 W. 4,
c. 98.

and their successors upon all such tallies, exchequer orders, exchequer bills, or parliamentary funds which the said governor and company or their successors shall have remaining in their hands or be entitled to at the time of such notice to be given as last aforesaid, then and in such case, and not till then, (unless under the proviso herein-before contained,) the said exclusive privileges of banking granted by this act shall cease and determine at the expiration of such notice of twelve months.

[See the 5 & 6 W. 4, c. 41, to amend the law relating to securities arising out of gaming, usurious, and certain other illegal transactions. See *post*, Class V. *Usury*.]

PART III.

CLASS V.

USURY.

[No. I.] 3 & 4 W. IV. c. 98.

[By this act, renewing the bank charter (s. 7) it is enacted "That no bill of exchange or promissory note made payable at or within three months after the date thereof, or not having more than three months to run, shall, by reason of any interest taken thereon or secured thereby, or any agreement to pay or receive or allow interest in discounting, negotiating, or transferring the same, be void, nor shall the liability of any party to any bill of exchange or promissory note be affected by reason of any statute or law in force for the prevention of usury, nor shall any person or persons drawing, accepting, indorsing, or signing, any such bill or note, or lending or advancing any money, or taking more than the present rate of legal interest in Great Britain and Ireland respectively, for the loan of money on any such bill or note, be subject to any penalties under any statute or law relating to usury, or any other penalty or forfeiture, any thing in any law or statute relating to usury in any part of the united kingdom to the contrary notwithstanding." (1)]

[No. II.] 5 & 6 W. IV. c. 41.—An Act to amend the Law relating to Securities given for Considerations arising out of gaming, usurious, and certain other illegal Transactions.

[31st August 1835.]

WHEREAS by an act passed in the sixteenth year of the reign of his late Majesty king Charles the second, and by an act passed in the parliament of Ireland in the tenth year of the reign of his late Majesty king William the third, each of such acts being intituled *An Act against deceitful, disorderly, and excessive Gaming*, it was enacted, That all and singular judgments, statutes, recognizances, mortgages, conveyances, assurances, bonds, bills, specialties, promises, covenants, agreements, and other acts, deeds, and securities whatsoever, which should be obtained, made, given, acknowledged, or entered into for security or satisfaction of or for any money or other thing lost at play or otherwise as in the said acts respectively is mentioned, or for any part thereof, should be utterly void and of none effect: And whereas by an act passed in the ninth year of the reign of her late Majesty queen Anne, and also by an act passed in the parliament of Ireland in the eleventh year of the reign of her said late Majesty, each of such acts being intituled *An Act for the better preventing of excessive and deceitful Gaming*, it was enacted, That from and after the several days therein respectively mentioned all notes, bills, bonds, judgments, mortgages, or other securities or conveyances whatsoever, given, granted, drawn, or entered into or

16 Car. 2, c. 7.

10 Will. 3. (1.)

9 Ann. c. 14.

11 Ann. (1.)

(1) A warrant of attorney given to secure the amount of a bill at three months, discounted at more than 5l. per cent. interest, and which was dishonored when due, was held to be also protected by the above clause.—*Connop v. Yeates*, 4 Nev. & M. 302.

- No. II.
5 & 6 W. 4,
c. 41.
- executed by any person or persons whatsoever, where the whole or any part of the consideration of such conveyances or securities should be for any money or other valuable thing whatsoever won by gaming or playing at cards, dice, tables, tennis, bowls, or other game or games whatsoever, or by betting on the sides or hands of, such as did game at any of the games aforesaid, or for the reimbursing or repaying any money knowingly lent or advanced for such gaming or betting as aforesaid, or lent or advanced at the time and place of such play to any person or persons so gaming or betting as aforesaid, or that should, during such play, so play or bet, should be utterly void, frustrate, and of none effect, to all intents and purposes whatsoever; and that where such mortgages, securities, or other conveyances should be of lands, tenements, or hereditaments, or should be such as should incumber or affect the same, such mortgages, securities, or other conveyances should enure and be to and for the sole use and benefit of and should devolve upon such person or persons as should or might have or be entitled to such lands or hereditaments in case the said grantor or grantors thereof, or the person or persons so incumbering the same, had been naturally dead, and as if such mortgages, securities, or other conveyances had been made to such person or persons so to be entitled after the decease of the person or persons so encumbering the same; and that all grants or conveyances to be made for the preventing of such lands, tenements, or hereditaments from coming to or devolving upon such person or persons thereby intended to enjoy the same as aforesaid should be deemed fraudulent and void and of none effect, to all intents and purposes whatsoever: And whereas by an act passed in the twelfth year of the reign of her said late Majesty queen Anne, intituled *An Act to reduce the Rate of Interest without any Prejudice to Parliamentary Securities*, it was enacted, That all bonds, contracts, and assurances whatsoever made after the twenty-ninth day of September one thousand seven hundred and fourteen for payment of any principal or money to be lent or covenanted to be performed upon or for any usury, whereupon or whereby there should be reserved or taken above the rate of five pounds in the hundred, as therein mentioned, should be utterly void: And whereas by an act passed in the parliament of Ireland in the fifth year of the reign of his late Majesty king George the second, intituled *An Act for reducing the Interest of Money to Six per cent*, it was enacted, That all bonds, contracts, and assurances whatsoever made after the first day of May one thousand seven hundred and thirty-two for payment of any principal or money to be lent or covenant to be performed upon or for any loan, whereupon or whereby there should be taken or reserved above the rate of six pounds in the hundred, should be utterly void:
- 12 Ann. st. 2,
c. 16.
- 5 G. 2. (I.)
- 58 G. 3, c. 93.
- 11 & 12 G. 3,
(I.)
- And whereas by an act passed in the fifty-eighth year of the reign of his late Majesty king George the third, intituled *An Act to afford Relief to the bond fide Holders of negotiable Securities without Notice that they were given for a usurious Consideration*, it was enacted, That no bill of exchange or promissory note that should be drawn or made after the passing of that act should, though it might have been given for a usurious consideration or upon a usurious contract, be void in the hands of an indorsee for valuable consideration, unless such indorsee had at the time of discounting or paying such consideration for the same actual notice that such bill of exchange or promissory note had been originally given for a usurious consideration or upon a usurious contract: And whereas by an act passed in the parliament of Ireland in the eleventh and twelfth years of the reign of his said late Majesty king George the third, intituled *An Act to prevent Frauds committed by Bankrupts*, it was enacted, That every bond, bill, note, contract, agreement, or other security whatsoever to be made or given by any bankrupt or by any other person unto or to the use of or in trust for any creditor or creditors, or for the security of the payment of any debt or sum of money due from such bankrupt at the time of his becoming bankrupt, or any part thereof, between the time of his becoming bankrupt and such bank-

rupt's discharge, as a consideration or to the intent to persuade him, her, or them to consent to or sign any such allowance or certificate, should be wholly void and of no effect, and the monies there secured or agreed to be paid should not be recovered or recoverable : And whereas by an act passed in the forty-fifth year of the reign of his said late Majesty king George the third, intituled *An Act for the Encouragement of Seamen, and for the better and more effectually manning his Majesty's Navy during the present War*, it was enacted, That all contracts and agreements which should be entered into, and all bills, notes, and other securities which should be given, by any person or persons for ransom of any ship or vessel, or of any merchandize or goods on board the same, contrary to that act, should be absolutely null and void in law, and of no effect whatsoever : And whereas by an act passed in the sixth year of the reign of his late Majesty king George the fourth, intituled *An Act to amend the Laws relating to Bankrupts*, it was enacted, That any contract or security made or given by any bankrupt or other person unto or in trust for any creditor, or for securing the payment of any money due by such bankrupt, at his bankruptcy, as a consideration or with intent to persuade such creditor to consent to or sign the certificate of any such bankrupt, should be void, and the money thereby secured or agreed to be paid should not be recoverable, and the party sued on such contract or security might plead the general issue, and give that act and the special matter in evidence : And whereas securities and instruments made void by virtue of the several herein-before recited acts of the sixteenth year of the reign of his said late Majesty king Charles the second, the tenth year of the reign of his said late Majesty king William the third, the ninth and eleventh years of the reign of her said late Majesty queen Anne, the eleventh and twelfth years of the reign of his said late Majesty king George the third, the forty-fifth year of the reign of his said late Majesty king George the third, and the sixth year of the reign of his said late Majesty king George the fourth, and securities and instruments made void by virtue of the said act of the twelfth year of the reign of her said late Majesty queen Anne, and the fifth year of the reign of his said late Majesty king George the second, other than bills of exchange or promissory notes made valid by the said act of the fifty-eighth year of the reign of his said late Majesty king George the third, are sometimes indorsed, transferred, assigned, or conveyed to purchasers or other persons for a valuable consideration, without notice of the original consideration for which such securities or instruments were given ; and the avoidance of such securities or instruments in the hands of such purchasers or other persons is often attended with great hardship and injustice : For remedy thereof be it enacted, &c. That so much of the herein-before recited acts of the sixteenth year of the reign of his said late Majesty king Charles the second, the tenth year of the reign of his said late Majesty king William the third, the ninth, eleventh, and twelfth years of the reign of her said late Majesty queen Anne, the fifth year of the reign of his said late Majesty king George the second, the eleventh and twelfth and the forty-fifth years of the reign of his said late Majesty king George the third, and the sixth year of the reign of his said late Majesty king George the fourth, as enacts that any note, bill, or mortgage shall be absolutely void, shall be and the same is hereby repealed ; but nevertheless every note, bill, or mortgage which if this act had not been passed would, by virtue of the said several lastly herein-before mentioned acts or any of them, have been absolutely void, shall be deemed and taken to have been made, drawn, accepted, given, or executed for an illegal consideration, and the said several acts shall have the same force and effect which they would respectively have had if instead of enacting that any such note, bill, or mortgage should be absolutely void, such acts had respectively provided that every such note, bill, or mortgage should be deemed and taken to have been made, drawn, accepted, given, or executed for an illegal consideration : Pro-

No. II.
5 & 6 W. 4,
c. 41.

45 G. 3, c. 72.

6 G. 4, c. 16.

Securities given for considerations arising out of illegal transactions not to be void, but to be deemed to have been given for an illegal consideration.

No. II.
5 & 6 W. 4,
c. 41.

Money paid to the holder of such securities shall be deemed to be paid on account of the person to whom the same was originally given.

Repealing so much of recited acts of 9 & 11 Anne, as enacts that securities shall enure for the benefit of parties in remainder.

vided always, That nothing herein contained shall prejudice or affect any note, bill, or mortgage which would have been good and valid if this act had not been passed.

II. That in case any person shall, after the passing of this act, make, draw, give, or execute any note, bill, or mortgage for any consideration on account of which the same is by the herein-before recited acts of the sixteenth year of the reign of his said late Majesty king Charles the second, the tenth year of the reign of his said late Majesty king William the third, and the ninth and eleventh years of the reign of her said late Majesty queen Anne, or by any one or more of such acts, declared to be void, and such person shall actually pay to any indorsee, holder, or assignee of such note, bill, or mortgage the amount of the money thereby secured, or any part thereof, such money so paid shall be deemed and taken to have been paid for and on account of the person to whom such note, bill, or mortgage was originally given upon such illegal consideration as aforesaid, and shall be deemed and taken to be a debt due and owing from such last-named person to the person who shall so have paid such money, and shall accordingly be recoverable by action at law in any of his Majesty's courts of record.

III. That so much of the said acts of the ninth and eleventh years of the reign of her said late Majesty queen Anne as enacts that where such mortgages, securities, or other conveyances as therein mentioned should be of lands, tenements, or hereditaments, or should be such as should incumber or affect the same, such mortgages, securities, or other conveyances should enure and be to and for the sole use and benefit of and should devolve upon such person or persons as should or might have or be entitled to such lands or hereditaments in case the grantor or grantors thereof, or the person or persons incumbering the same, had been naturally dead, and as if such mortgages, securities, or other conveyances had been made to such person or persons so to be entitled after the decease of the person or persons so incumbering the same, and that all grants or conveyances to be made for the preventing of such lands, tenements, or hereditaments from coming to or devolving upon such person or persons thereby intended to enjoy the same as aforesaid, should be deemed fraudulent and void and of none effect, to all intents and purposes whatsoever, shall be and the same is hereby repealed; saving to all persons all rights acquired by virtue thereof previously to the passing of this act.

PART III.

CLASS VI.

ANNUITIES.

[No. I.] 10 G. IV. c. 24.—An Act to enable the Commissioners for the Reduction of the National Debt to grant Life Annuities and Annuities for Terms of Years (1).

[22nd May 1829.]

WHEREAS an act was passed in the last session of parliament, intituled, *An Act to repeal so much of several Acts as empowers the Commissioners for the Reduction of the National Debt to grant Life Annuities*; and it is expedient that the said commissioners should be enabled to grant such annuities in future according to the duration of human life as ascertained by recent tables of observation thereon, and also to grant annuities to continue for a certain limited term of years; and that all such annuities should be granted in consideration of the transfer of bank annuities, or annuities commonly called long annuities, or in consideration of payment of money to the said commissioners; and that provisions should be made for carrying the said measure into effect as herein-after expressed; be it therefore enacted, &c., That from and after the passing of this act it shall be lawful for the commissioners for the reduction of the national debt, at such days and times as they shall from time to time appoint by notice in the *London Gazette* for that purpose, to accept and receive from any person or persons whomsoever the transfer of any bank annuities or long annuities transferrable at the bank of England, or to receive any sum or sums of money as the consideration for the purchase of life annuities, or of annuities for a certain limited term of years, to be chargeable and charged upon and to be payable out of the consolidated fund of the united kingdom; and to sell and grant annuities, either on the continuance of single lives or on the continuance of two lives, and the life of the longest liver of them, or upon the joint continuance of two joint lives, such annuities to commence respectively either immediately or at a period to be fixed at the time of granting any annuity; and also to sell and grant deferred annuities upon the continuance of a single life or joint lives; and also to sell and grant annuities, to continue for any certain limited term of years, to commence either immediately or on any day to be named at the time of granting any such annuity; and also to sell and grant, generally, any immediate annuities, or any temporary annuities, or any deferred annuities, of whatsoever kind or denomination, (save and except that no deferred annuities shall be granted for any certain limited term of years to commence from and after the death of any nominee,) as are allowed by this act, in the manner and under the limitations and restrictions and regulations herein-after expressed.

9 G. 4, c. 16.

Commissioners for reduction of national debt may accept transfers of stock, or receive money for the purchase of annuities for life, immediate or deferred, or for terms of years.

II. Provided always, That no annuity or annuities shall be sold or granted by the said commissioners upon the life of any nominee under the provisions of this act, who, on the day when the contract for such annuity or annuities shall be made, shall be under the age of fifteen years: Provided also, That it shall be lawful for the said commissioners

Annuities not to be granted on the life of any nominee under 15 years

(1) See the 2 & 3 W. 4, c. 59, *post*.

No. I.
10 G. 4, c. 24.

of age ;
nor in any
other case
where the commissioners, &c. may think fit to decline.

Annuities may
be purchased
by the transfer
of not less than
100*l.* stock,
&c.

or payment of
not less than 5*l.*
a year, &c.

All bank an-
nuities so trans-
ferred, &c.
shall be
cancelled.

Annuities
granted shall
be accepted by
grantees, if
required.

Purchasers of
annuities may
appoint nominees,
being
natives of the
united king-
dom.

Not to prevent
any persons
from pur-
chasing an-
nuities on their
own lives.

Previously to
transfer of
stock or pay-
ment of money,
parties shall

or the comptroller general or assistant comptroller acting under the said commissioners, to decline or refuse to sell and grant any annuity under the provisions of this act, in such cases where there shall be, in the opinion of the said commissioners, or of the said comptroller general or assistant comptroller, sufficient grounds for refusing or declining so to do.

III. That it shall and may be lawful for the said commissioners for the reduction of the national debt, and they are hereby authorized and empowered, to accept and receive any amount, not less than one hundred pounds, of any bank annuities, or to accept and receive any sum of money or any amount of long annuities, equal in value to not less than one hundred pounds of three per cent. bank annuities, according to the average price of such annuities, to be ascertained in manner herein-after directed, from any person or persons desirous of purchasing any annuity or annuities for lives or years of whatsoever kind, under the regulations of this act, at and according to such rates as shall be specified in any table or tables which shall be from time to time approved by the lords commissioners of his Majesty's treasury, or any three or more of them ; and it shall also be lawful for the said commissioners for the reduction of the national debt to accept and receive from any person or persons any sum of money by the year, at such time or times in each and every year as the said commissioners shall appoint, amounting to five pounds or upwards, in money, for the purpose of enabling the person or persons making such payment or transfer to purchase any of the before-mentioned deferred annuities for lives, under the provisions of this act, according to such regulations as the said commissioners for the reduction of the national debt shall direct and approve ; and all bank annuities and long annuities which shall be so transferred, and also all bank annuities which shall be purchased with any sums of money so paid, shall from time to time be carried to the account of the said commissioners for the reduction of the national debt, and shall then be cancelled, and all interest or dividends on such annuities respectively shall cease to be charged upon or to be issued out of the consolidated fund from and after the day upon which any such annuities respectively shall be transferred to and placed in the names of the said commissioners : Provided always, That the several persons by whom any annuities for lives or years of whatsoever kind shall be purchased, or to whom any such annuities shall be assigned and transferred under the provisions of this act, shall (if the governor and company of the said bank shall require the same) respectively underwrite his, her, or their acceptance thereof in the books of the said governor and company, by himself or herself, or by some other person or persons duly authorized on his, her, or their behalf.

IV. That whenever any person shall be desirous of purchasing, under the provisions of this act, any life annuity of whatsoever kind, it shall be lawful for the person or persons so desiring to purchase such annuity to name and appoint any other person or persons, being of the age of fifteen years or upwards at the time of such nomination, and being a native or natives of, and most usually resident within, the united kingdom of Great Britain and Ireland, on the continuance of whose life such annuity shall depend : Provided always, That nothing herein contained shall be construed to prevent any person, whether a native or not of the united kingdom, or not residing in the united kingdom, from purchasing any life annuity of whatsoever kind under this act, to depend upon the continuance of the life of himself, herself, or themselves, as the nominees or nominees of such annuity.

V. That before any bank annuities or long annuities shall be transferred, or any money shall be paid to the commissioners for the reduction of the national debt, for the purchase of any life annuity under the provisions of this act, a declaration in such form as shall from time to time be directed or authorized by the said commissioners, or by the

comptroller general or assistant comptroller acting under the said commissioners, shall be signed by the person or one of the persons desirous of purchasing such annuity, or by some person on his, her, or their behalf, stating the name of the person by whom or on whose behalf such annuity shall be purchased, and the name or names of the person or persons on whose life or lives such annuity is required to be granted, with such other particulars as the said commissioners, or the said comptroller general or assistant comptroller, shall from time to time direct, and such declaration shall be delivered to the said comptroller general or assistant comptroller or other officer acting under the said commissioners; and there shall also be produced to the said officer a copy of the register of the birth or baptism of the person desiring to purchase such annuity on his own life, or of any and every nominee on whose life or lives any such annuity shall be purchased, certified as true, under the hand of the minister of the parish or place where such register shall be kept, or in the absence of the minister, then a copy of such register, together with a certificate of the truth thereof (wherein such absence shall be specified,) under the hands of the churchwardens or chapelwardens or overseers of such parish or place, or any two of them, and every such certificate, whether of the minister or churchwardens, or chapelwardens or overseers, shall be attested by two or more credible witnesses; and to such certificate there shall also be annexed an affidavit of the said witnesses, or one of them, or their, his, or her solemn affirmation, (in case they or either of them shall be of the persuasion called Quakers,) to be made before any justice of the peace or magistrate in the united kingdom of Great Britain and Ireland, or before the comptroller general or assistant comptroller, or other officer or officers appointed by the said commissioners for that purpose, (and which oath or affirmation such justice or magistrate, or comptroller general, assistant comptroller, or other officer, is hereby authorized and empowered to administer,) that such witness or witnesses did examine and compare the said copy of the register of birth or baptism with the register thereof, and did see such minister, or churchwardens or chapelwardens, or overseers (as the case may be,) sign the said certificate, and that the names of such witnesses are of their own proper handwriting; and to every such certificate shall also be annexed an affidavit or solemn affirmation made by the purchaser of the said annuity, (or by one of the purchasers in case there shall be two or more,) or by some person on his, her, or their behalf, before any justice of the peace or magistrate in the united kingdom of Great Britain and Ireland, or before such comptroller general or assistant comptroller, or other officer or officers of the said commissioners, that the person named and described in the copy or certificate of the register of birth or baptism produced to the said officer is the same person who is appointed to be such nominee.

VI. Provided always, That in all cases where any copy or certificate of any register, which shall be produced pursuant to this act, shall purport to be a copy or certificate of the register of the baptism only, and not of the birth of any person, the age of such person shall, for the purposes of this act, be calculated from the date of such baptism, and the amount of the annuity to be purchased on the life of the person named in any such copy or certificate shall be estimated and ascertained in like manner in all respects as if such person had been born on the day expressed in such copy or certificate to be the date of his or her baptism.

VII. Provided also, That in case any person by whom or on whose behalf any annuity shall be purchased on his or her own life shall not be a native of the united kingdom of Great Britain and Ireland, or in case the birth or baptism of any nominee whatever, whether such person shall be his own nominee or not (being a native of the united kingdom,) shall not appear in the register of the parish where such nominee shall have been born or baptized, then and in every such case there shall be produced to the said comptroller general or assistant comptroller, or other officer of the said commissioners (in lieu of such

No. I.

10 G. 4, c. 24.

sign declaration, and produce certificates of age of nominees of life annuities.

If day of birth not named in certificate, age shall be calculated from the day of baptism.

Proof of age.

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certificates and affidavits as aforesaid), an affidavit or solemn affirmation, in writing, of the age of such nominee, together with his or her name, surname, addition, and employment or occupation (if any), and usual place of abode, and also the place of his or her birth, and the names of his or her parents or reputed parents, also stating that the person named and described in such affidavit or affirmation is the person on whose life such annuity is intended to be purchased; and such affidavit or affirmation shall be made either by the person or one of the persons by whom or on whose behalf such annuity shall be purchased, or by such nominee, or by some other person having knowledge of the several circumstances before mentioned, in which latter case the said affidavit or affirmation shall also be accompanied by an affidavit or affirmation to be made by the person or one of the persons by whom or on whose behalf such annuity shall be purchased, that the contents of such last-mentioned affidavit are true to the best of his or her knowledge and belief; and such affidavits or affirmations respectively shall and may be taken before any justice of the peace or magistrate in the united kingdom of Great Britain and Ireland, or before the said comptroller general or assistant comptroller, or other officer or officers of the said commissioners; and if any such person or nominee shall be a native of the united kingdom of Great Britain and Ireland, then in such affidavit shall also be stated the cause why a certificate of the copy of the register of his or her birth or baptism cannot be produced.

Purchaser of an annuity for years, to sign a declaration approved by the commissioners.

VIII. Provided also, That in cases where any annuity for a certain limited term of years is intended to be purchased under the provisions of this act, it shall be sufficient for that purpose for the purchaser, or for some person on his, her, or their behalf, to sign and produce a declaration to such officer of such his intention, in such form as the said commissioners, or the said comptroller general or assistant comptroller, shall from time to time approve.

Average prices of stocks to be daily made out and transmitted to officer.

IX. And for ascertaining the average price of bank annuities, according to which the amount of any annuities purchased under the provisions of this act is to be regulated, be it enacted, That the cashier or cashiers of the governor and company of the bank of England shall and they are hereby required to cause an account to be made out, on every day on which any bank annuities or long annuities shall have been bought at the bank of England, of the average price at which all or any bank annuities or long annuities shall have been bought on such day; and such account shall be transmitted to the comptroller general or assistant comptroller of the commissioners for the reduction of the national debt, for the purpose of enabling him to ascertain and certify, in manner herein-after directed, the respective amounts of the life annuities which may be purchased under the provisions of this act; and a copy thereof shall be put up in some conspicuous place of his office, in order that the same may be seen by all persons desirous of ascertaining the price at which stock may be transferred, and the price at which money may be laid out, for the purchase of any annuities under the provisions of this act.

When it shall appear to the comptroller general, that the declaration, &c. has been made conformable to this act, he may grant a certificate thereof;

X. That whenever it shall appear to the said comptroller general or assistant comptroller, or any other officer acting under the said commissioners, that the certificates and affidavits and declaration produced by the proposed purchaser of any annuity as aforesaid are conformable to the directions of this act, such officer shall thereupon ascertain the amount of the annuity for life or lives or years, to be payable in respect of the bank annuities or long annuities proposed to be transferred, or in respect of the sum of money proposed to be paid for the purchase of any such annuities respectively; and the amount of such respective annuities for lives or years shall in all cases be calculated and checked by the actuary and accountant, or other check officer, of the check branch in the office of the said commissioners; and thereupon such comptroller general or assistant comptroller, or other officer, shall grant his certificate to the party making such purchase, and shall transmit a duplicate thereof to the governor and company of the bank of England;

and upon the production and delivery of the original certificate at the bank, and upon the transfer to the said commissioners of such bank annuities or long annuities, or upon the payment to them of such sum of money as aforesaid, as the consideration for the purchase of the annuity required to be granted, a certificate or receipt shall be given by one of the cashiers of the said governor and company of the bank, to the party on whose behalf such transfer or payment shall be made, and such receipt shall be an acquittance or discharge for the bank annuities or long annuities so transferred, or for the money so paid: Provided always, That no certificate for enabling the transfer of any bank annuities, or for the payment of money in lieu thereof, for the purchase of any annuities to be granted under the provisions of this act, shall be or continue valid to authorize such payment or transfer being made after the expiration of five days from the date of such certificate.

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upon production of which the stock may be transferred, and the party receive an acquittance.

XI. That it shall and may be lawful for any person desirous of purchasing any annuity for lives or years, of whatsoever kind, under this act, to transfer to the commissioners for the reduction of the national debt any bank annuities carrying a higher rate of interest than three pounds per centum per annum; and whenever any such bank annuities or any long annuities shall be so transferred, and whenever any sum of money shall be paid for the purchase of any annuity for lives or years under this act, such bank annuities carrying a higher rate of interest than three pounds per centum per annum, and such long annuities, and such sum of money respectively, shall be first converted, by the computation of the proper officer acting under the said commissioners for the reduction of the national debt, into three pounds per centum consolidated or reduced bank annuities (at the option of the purchaser), according to the average price of three pounds per centum annuities, to be ascertained as directed by this act, and the annuity or annuities to be granted in respect of the consideration of such purchase shall be calculated and ascertained upon the amount of three pounds per centum annuities (excluding the fractional parts of a pound of such last mentioned three pounds per centum annuities, if any), produced by such conversion; and whenever any sum of money shall be so paid, a charge of two shillings and sixpence shall be made upon the purchaser of such annuity for life or years, for every entire one hundred pounds of three pounds per centum annuities produced by the conversion of such money into such three pounds per centum annuities as aforesaid.

If bargains are made in stock bearing more than 3 per cent. interest, or in long annuities, or money, such stock, &c. shall be converted into 3 per cents.

XII. That any bank annuities, and any annuities for a certain term of years, which may at any time after the passing of this act be created by this act, or by any future act or acts, shall be transferrable and may be transferred to the commissioners for the reduction of the national debt, for the purchase of any annuities of whatsoever kind, under the provisions of this act, in like manner in all respects as any bank annuities, or annuities for a certain term of years, existing at the time of the passing of this act, and shall be subject to all the rules, regulations, and provisions in this act contained.

Future bank annuities, &c. may be transferred for the purposes of this act.

XIII. That in all cases where any sum of money shall be the consideration for any annuity for lives or years, of whatsoever kind, to be granted under the provisions of this act, such sum of money shall be paid by or on behalf of the purchaser or purchasers of such annuity into the bank of England; under a certificate of the proper officer of the commissioners for the reduction of the national debt; and upon the production of such certificate, the cashier or cashiers of the said bank shall and he and they is and are hereby required to receive all such monies, and to place the same to the account of the said commissioners; and all such monies shall be laid out on behalf of the said commissioners in the purchase of bank annuities, as the said commissioners shall from time to time direct; and all such bank annuities shall from time to time be cancelled as herein-before directed: Provided always,

Money for the purchase of annuities shall be paid into the bank to account of commissioners for the reduction of the national debt.

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Treasury shall direct the use of tables of the value of annuities as approved by them.

That all monies paid to the said commissioners for the purchase of life annuities shall be carried to their account, standing in the books of the said bank, under any acts heretofore in force enabling the said commissioners to grant life annuities; and all monies paid to the said commissioners for the purchase of annuities for terms of years shall be carried to a distinct and separate account in the books of the said bank.

XIV. That for the better carrying this act into execution it shall and may be lawful for the commissioners of his Majesty's treasury, or any three or more of them, from time to time, as they shall think fit, to direct the commissioners for the reduction of the national debt to use and adopt such tables as shall, from time to time, be authorized and approved of by the said commissioners of the treasury, or any three or more of them, for ascertaining the values of annuities depending on the continuance of single lives, and on the continuance of two lives and the life of the longest liver of them, and on the joint continuance of two joint lives; and also such tables of the values of deferred annuities on single or joint lives; and also such tables of the values of annuities, for a certain limited term of years, immediate or deferred, as may be granted according to the provisions of this act; and such respective tables shall be valid and effectual for the purposes of this act; and all annuities for lives or years, of whatsoever kind, to be purchased under the provisions of this act, shall be purchased according to the values stated in such tables respectively, so long as the same shall remain in force; and it shall be lawful for the said commissioners of the treasury to alter, revoke, and recal all or any such tables from time to time, and to direct the use and adoption of such other tables in lieu thereof as shall be approved of by the said commissioners of the treasury: Provided always, That the said commissioners for the reduction of the national debt shall, previous to the adoption and using of any such tables respectively, give notice, from time to time, in the *London Gazette*, in such form and manner as to the said commissioners for the reduction of the national debt shall seem fit and proper, that such tables have been authorized and approved by the said commissioners of the treasury.

Purchasers of life annuities, or annuities for years, shall be entitled to such amount of annuity as shall be specified in such tables.

XV. That in every case where any bank annuities or long annuities shall be transferred, or any sum of money shall be paid as the consideration for the purchase of any annuity for lives or years, of whatsoever kind, under the provisions of this act, the person or persons purchasing any such annuity for lives or years, upon the transfer of such bank annuities or long annuities, or upon the payment of such sum of money to the said commissioners, shall, for every one hundred pounds of such three per centum bank annuities, or for every sum of long annuities, or for every sum of money paid equal to the value of such one hundred pounds of such three per centum annuities, and so in proportion for any greater sum, be entitled to receive, (during the continuance of the single life of the nominee, or during the lives of the two nominees and the life of the longest liver of them, or during the joint continuance of the lives of the two joint nominees, or during the continuance of the single or joint lives in cases of deferred life annuities, or during the term of years, immediate or deferred, for which any annuity shall be granted under this act,) an annuity for a life or lives, or for terms of years, as the case may be, of such annual amount as shall be specified in any such table or tables respectively, as the commissioners of his Majesty's treasury, or any three or more of them, shall from time to time authorize and approve in manner herein-before directed, to be calculated and ascertained according to the age of the nominee or nominees, or the continuance of the term of years respectively, as the case may be, and according to the average price (to be ascertained as is herein-before directed) of three pounds per centum consolidated or reduced bank annuities on the day preceding the day of granting the said certificate to the party purchasing any such annuity for a life or lives, or for a term of years as aforesaid: Provided always, that whenever it shall happen that no sale of any bank annuities shall

have been made, so as to enable such average price to be ascertained on each and every day, in manner herein-before required, then such calculation shall be made according to the average price on the nearest day preceding the date of the certificate to be granted by such officer.

XVI. That it shall not be lawful for any person to transfer, for the purchase of any annuity under the provisions of this act, any less sum than one hundred pounds of any bank annuities, nor any fractional part less than one pound of such bank annuities, except in cases expressly provided for by this act; and that in every case where the calculation of the amount of any annuity, according to the provisions of this act, shall produce a fraction less than sixpence, the fractional part of the said annuity less than sixpence shall be taken from the amount thereof, and shall not be inserted in the certificate to be granted by the officer of the said commissioners for the reduction of the national debt, nor shall be payable at the bank of England.

XVII. That all life annuities of whatsoever kind, which shall be purchased and granted under the provisions of this act, (whether such life annuities shall commence immediately or not,) shall in their due course, as the same shall fall due and become payable, be added to and shall form part of the life annuities payable at the bank of England under any act or acts heretofore in force enabling the said commissioners to grant life annuities; and all annuities for terms of years, which shall be purchased and granted under this act, shall be carried to a separate account in the books of the governor and company of the bank of England, and the books of the commissioners for the reduction of the national debt, under the title of "Annuities for Terms of Years granted by the Commissioners for the Reduction of the National Debt, pursuant to Act of the Tenth of George the Fourth;" and the said annuities for terms of years shall be comprehended in one general account, notwithstanding the said annuities shall continue for various terms of years.

XVIII. That whenever any person shall have purchased any annuity for the life or lives of any nominee or nominees under the provisions of any act heretofore in force, by which the said commissioners were empowered to grant life annuities, or under the provisions of this act, and such person shall be afterwards desirous of purchasing any further annuity or annuities on the life or lives of the same nominee or nominees, (whether such life annuities shall have been originally contracted for to commence immediately or not,) the original proofs of the age of such nominee or nominees, produced at the time of the purchase of the first annuity, shall be deemed sufficient to authorize the proper officer of the said commissioners, and such officer is hereby required from time to time to grant to the person applying to him for that purpose all or any such certificate or certificates as by this act are directed or required, for the purpose of enabling such persons to transfer any bank annuities or long annuities, or for the payment of any sum of money for the purchase of such further life annuity or annuities, without the production of any fresh certificates or affidavits in regard to the birth or baptism or other particulars respecting such nominee or nominees; and the certificates so to be granted by such officer shall be valid and effectual to enable every such person to transfer any bank annuities or long annuities, or to make payments of any sum of money for the purchase of such further life annuity or annuities, and to entitle every such person to such certificates and receipts from the cashier of the bank of England, in like manner as if the certificate of such officer had been granted upon the production of the original certificates and affidavits.

XIX. And whereas it may tend to facilitate the granting life annuities under this act, if persons other than those by whom any nominee or nominees were originally named and appointed were allowed to purchase annuities upon the life or lives of such nominee or nominees without new certificates; be it therefore enacted, That it shall and may be lawful for any person or persons to purchase in all cases any of the aforesaid annuity or annuities, of whatsoever kind, under the provi-

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Preventing
fractions.

Life annuities
granted under
this act shall
be added to
former annu-
ities for lives;

and annuities
for years shall
be carried to a
separate ac-
count.

Life annuitants
may make fur-
ther purchases
on lives of
original nomi-
nees without
fresh certifi-
cates.

Any persons
may purchase
life annuities
on life of no-
minees of other
annuitants
without fresh
certificates.

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sions of this act, upon the life or lives of any one or more nominee or nominees, either singly or jointly, whose age shall have been certified and verified under the provisions of this act, or of any act heretofore in force as aforesaid, without the production of any new or additional certificate or certificates of the age or ages of such nominee or nominees: Provided always, that in every case an affidavit or solemn affirmation as to the identity of such nominee or nominees shall be made by the purchaser of any such annuity, or by some person on behalf of such purchaser, before such and the like persons as are specified and required in and by this act, in cases wherein copies of the register of the birth or baptism of any nominee or nominees is or are required to be produced under the provisions of this act.

* Persons appointed by commissioners shall accept stock transferred by purchasers of annuities.

Annuities purchased under this act and former acts chargeable on consolidated fund.

Amount of annuities from time to time payable shall be certified to the treasury, who shall issue their warrant to the bank for payment thereof out of the consolidated fund.

Time of half-yearly payment of all annuities granted under this act.

XX. That it shall be lawful for any person or persons who shall from time to time be nominated and appointed by the said commissioners for the reduction of the national debt under this act, or who shall have been appointed by them under any act heretofore in force, to accept any transfer of stock made to the said commissioners under the provisions of this act, and such person or persons are hereby authorized and empowered to accept the transfer of any bank annuities or long annuities which shall be transferred to the said commissioners for the purchase of any annuities for life or years of whatsoever kind under the provisions of this act; and all annuities for lives or years of whatsoever kind which shall be purchased under the authority of this act, or which shall have been purchased under any act or acts heretofore in force enabling the said commissioners to grant life annuities, or under an act of the fifty-ninth year of his late Majesty's reign, empowering the said commissioners to grant annuities for lives or years for promoting the beneficial purposes of the fund commonly called the Waterloo subscription, shall be charged and chargeable, and the same are hereby made chargeable upon the consolidated fund of the united kingdom, and shall be paid and payable at the bank of England in manner directed by this act.

XXI. That for the purpose of ascertaining from time to time the amount of annuities for lives or for terms of years, payable under the authority of this act or any acts heretofore in force enabling the commissioners for the reduction of the national debt to grant life annuities, the comptroller general or assistant comptroller acting under the said commissioners shall, within fourteen days next preceding the fifth day of July, the tenth day of October, the fifth day of January, and the fifth day of April in each and every year, (commencing on and from the fifth day of July one thousand eight hundred and twenty-nine,) after deducting all expired and unclaimed annuities for lives or years which shall have previously ceased and determined, certify to the commissioners of his Majesty's treasury the amount of annuities for lives and of annuities for terms of years, the half-yearly payments of which shall from time to time be chargeable upon the said consolidated fund on each of such days respectively; and the said commissioners of the treasury, or any three or more of them, shall thereupon order and direct, by warrant under their hands, the sums specified from time to time in every such certificate to be issued and paid out of the said consolidated fund from time to time to the said governor and company of the bank of England, to be by them placed to the account of the said commissioners for the reduction of the national debt, for the purpose of paying all such annuities respectively.

XXII. That all annuities for lives or years of whatsoever kind, which shall be purchased under the provisions of this act, shall be payable at the bank of England by two equal half-yearly payments, to be respectively made on the fifth day of January and on the fifth day of July, or on the fifth day of April and the tenth day of October, in each and every year, according to the respective periods, as herein-after mentioned, within which any bank annuities or long annuities shall be transferred, or any money shall be paid for the purchase of any such annuities

for life or years of whatsoever kind respectively; and the first half-yearly payment of every such annuity so purchased shall be made at the times following, (that is to say,) on the fifth day of January in respect of all purchases completed by the transfer of bank annuities or long annuities, or payment of money, at any time during the quarter ending on the tenth day of October preceding such fifth day of January; on the fifth day of April in respect of all such purchases completed at any time during the quarter ending on the fifth day of January preceding such fifth day of April; on the fifth day of July in respect of all such purchases completed at any time during the quarter ending on the fifth day of April preceding such fifth day of July; and on the tenth day of October in respect of all such purchases completed at any time during the quarter ending on the fifth day of July preceding such tenth day of October; and all future half-yearly payments of every such annuity shall be made with reference to the time of such first half yearly payment: Provided, always, that upon the death of any single nominee, or of the survivor of any two joint nominees in respect of any life annuity, or upon the death of either of the two joint nominees, in case the annuity shall have depended upon the joint continuance of the lives of two joint nominees, a sum equal to one fourth part of the annuity depending upon the life of such single or surviving nominee, or such two joint nominees, (over and above all half-yearly arrears thereof respectively,) shall be payable to the person or persons entitled to such annuity, or his, her, or their executors, administrators, or assigns (as the case may be), on the half-yearly day of payment next succeeding the death of such nominee; provided that such last-mentioned payment shall be claimed within two years after the death of such single or surviving nominee, or after the death of either of such two joint nominees, but not otherwise: Provided also, that the fourth part of any expired life annuity payable under the provisions of this act shall not be payable nor be paid upon or in respect of any deferred or reversionary life annuity, unless one half-yearly payment of such deferred life annuity shall have been actually paid or become due at the time of the decease of such nominee.

XXIII. That for the space of fourteen days next after any of the said quarterly days for payment of the said annuities respectively, no bargain or contract shall be made by or on behalf of the said commissioners for the reduction of the national debt for the grant or purchase of any annuity under this act; any thing herein-before contained to the contrary in anywise notwithstanding.

XXIV. And for preventing frauds in the receipt of life annuities, be it further enacted, That before any half-yearly payment of any life annuity shall be receivable at the bank of England, (except in cases hereafter specially provided for,) there shall be produced to the proper officer of the commissioners for the reduction of the national debt, a certificate that the nominee upon whose life such annuity shall depend was living upon a day to be specified in such certificate, which day shall be one of the days on which a half-yearly payment of such annuity shall have become due, or some day subsequent thereto; and such certificate shall be under the hand of the minister, or in his absence (which shall be expressed in such certificate) under the hands of the churchwardens or chapelwardens or overseers of the parish or place, (or any two of them,) within the united kingdom, wherein such nominee shall be then resident, or under the hand of some justice of the peace or magistrate of the county, riding, city, or town wherein such parish or place shall be situate; and in case any nominee shall at any time after his or her nomination become resident in parts beyond the seas, in any of the dominions of his Majesty, then such certificate as aforesaid shall be under the hands of the governor or person acting

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Quarterly payment on death of nominee of life annuities.

Proviso as to deferred annuities.

Bargains for annuities not to be made within 14 days after the quarterly day of payment.

Before every half-yearly payment of life annuities, certificate of life of nominee shall be produced (1).

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Proviso as to
annuities on
joint lives.

Affidavit of the
party pro-
ducing certi-
ficate of the life
of nominee.

On production
of such certi-
ficates, &c. a
certificate shall
be granted for
payment of
annuity.

Certificates of
death of nomi-
nees to be pro-

as governor of the settlement where such nominee shall be resident; and in case such nominee shall, after his or her nomination, become resident in any kingdom or state in Europe in amity with his Majesty, or in other kingdom or state or place beyond the seas, then and in every such case such certificate as aforesaid shall be under the hand of the British minister or consul, or governor, or person acting as such, who shall be resident in the city, town, or place where such nominee shall be residing; and if no British minister or consul, or governor, or person acting as such, shall be resident in such city, town, or place, then such certificate as aforesaid shall be under the hand and seal of the chief magistrate of such city, town, or place, or any other magistrate acting at the time as such, or for or in the place of any such chief magistrate: Provided always, that in all cases where an annuity shall depend on the lives of two joint nominees, and the life of the longest liver of them, who shall both be living, it shall be sufficient to produce the certificate of the life of either of the nominees; and that in all cases where any annuity shall depend upon the joint continuance of the lives of two joint nominees, such certificate shall state that both such nominees are then living.

XXV. That there shall be annexed to every certificate of the life of any nominee, and produced to the proper officer, an affidavit or solemn affirmation made before some justice of the peace or magistrate, or before such comptroller general or assistant comptroller, or other officer appointed by and acting under the said commissioners, by the person or persons so entitled to such life annuity, or by the person applying to receive such annuity on behalf of the person or persons so entitled, which affidavit or affirmation shall state that the matters and things contained in such certificate are true to the best of the deponent's belief, and that the person described or certified therein is the nominee or one of the nominees, or both the nominees, in case the annuity shall depend upon the joint continuance of two joint nominees, on whose life or lives the annuity whereof such half-yearly payment shall be claimed doth depend; and in case such annuity shall have been granted on the lives of two nominees, and on the life of the longest liver of them, then in such affidavit or affirmation shall also be specified, to the best of the knowledge or belief of the deponent, whether the other of the two nominees whose life shall not be so certified as aforesaid be living or dead, and if living, the usual place of the residence of such nominee, or that such deponent is wholly ignorant whether the other of such two nominees be living or dead, and if living, the usual place of abode of such nominee, as the truth shall require.

XXVI. That upon the production to the proper officer of such certificate and affidavit as by this act are required, or in case any nominee on whose life, whether singly or jointly with any other nominee and the life of the longest liver of them, any annuity shall depend, or where such annuity shall depend upon the joint continuance of the lives of two joint nominees, then in case both such nominees shall appear personally before such officer, and such officer shall be satisfied of the identity of such nominee or nominees, it shall be lawful for such officer, and he is hereby required, to grant to the person producing such certificates and affidavits, or to the person or persons entitled to the annuity depending upon the life of the nominee or nominees so appearing before such officer, a certificate; which certificate, being produced to and lodged with the proper officer of the said governor and company of the bank of England, shall be sufficient to authorize the receipt, by or on behalf of the party entitled to such annuity, of the half-yearly payment of such annuity then due, and also of all such preceding half-yearly payments of such annuity as may have become due and shall then remain unpaid.

XXVII. That in all cases where upon the death of any single nominee, or of the survivor of any two joint nominees, or of either of the two joint nominees, (in cases where any expired annuity shall have depended

upon the joint continuance of the lives of two joint nominees,) any claim shall be preferred under the provisions of this act for the payment of a sum equal to one fourth part of the annuity depending upon the life or lives, and expired by the death of such nominee, then and in either of such cases the person or persons preferring such claim shall produce to the proper officer a certificate, specifying the day of the death or burial of such nominee, together with an affidavit in proof of the identity, and stating the day of the death of such nominee, to be respectively granted and taken by and before such and the like persons as are by this act authorized and empowered to grant certificates and to administer affidavits in proof of the life of any nominee; and upon the production of such certificate and affidavit at any time within thirty days next preceding the fifth day of January, fifth day of April, fifth day of July, or tenth day of October respectively in any year, it shall and may be lawful for such officer, and he is hereby authorized and required, at the next succeeding period of making the half-yearly payment of any life annuity granted under the provisions of this act, or of any act or acts heretofore in force enabling the said commissioners to grant life annuities, (whether such expired annuities shall or shall not have been payable at such half-yearly period,) to grant to the person producing such certificate of death or burial, and such affidavit of identity as aforesaid, a certificate of such production; and upon such last-mentioned certificate being lodged with the proper officer of the governor and company of the bank of England, all half-yearly arrears which shall be and remain due upon any and every such expired annuity, and also the fourth part of every such expired annuity (in case such fourth part shall be claimed within two years after the death of the nominee, according to the provisions of this act,) shall be made and paid to the person or persons entitled thereto.

XXVIII. That it shall be lawful for the proper officer of the said commissioners for the reduction of the national debt, and he is hereby authorized, empowered, and required, to receive any extracts or copies from the registers of the society of friends commonly called Quakers, or from the registers of any dissenting or Roman Catholic chapel, or other chapel not being parochial, as evidence of the death or burial of any nominee or nominees; provided that such extracts or copies shall be duly certified under the hand of the registrar or person keeping such registers; and that such copy, so certified, shall be accompanied by an affidavit as to the identity of such nominee or nominees, to be made and taken by and before such and the like person and person as is required by this act on the death of any nominee.

XXIX. That whenever it shall happen that two or more annuities shall have been purchased upon the life of the same nominee or nominees, and a certificate in conformity with the directions of this act, in proof of such nominee or nominees being living, shall have been produced to the proper officer by or on the behalf of the person or persons entitled to any one of such annuities, it shall and may be lawful for the proper officer, upon the production of such affidavit or affidavits or affirmation or affirmations, as to the identity of such nominee as are required by this act, to grant a certificate or certificates for the purpose of enabling any person or persons entitled to any other annuity or annuities payable in respect of the life of such nominee or nominees to receive such annuity or annuities, without requiring the production of any further certificate; and in case of the personal appearance of any nominee or nominees as herein-before mentioned, the certificate authorizing the receipt of any annuity shall and may be granted by the said officer, without requiring any further proof of such nominee being living.

XXX. And for the purpose of enabling further purchases of any annuities to be made by any person to whom any annuity shall have been or shall be granted under the provisions of any act heretofore in force enabling the said commissioners to grant life annuities, or under the provisions of this act; be it enacted, That it shall be lawful for the

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duced upon claim for payment of one fourth part of expired annuities.

Certificate of burials of Quakers, &c.

Certificates as to life of nominee shall be applicable to all annuities held for his life.

Personal appearance of nominees.

Further annuities may be granted to persons having purchased any former annuity

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commissioners for the reduction of the national debt, and they are hereby authorized and empowered, to accept the transfer of any three pounds per centum bank annuities to their account in the books of the said governor and company of the bank of England, the amount of which shall not be less than twenty pounds, or to accept and receive any bank annuities carrying a higher rate of interest than three pounds per centum per annum, or any long annuities, or any sum of money equivalent thereto, in lieu of such three pounds per centum bank annuities, to be computed and ascertained according to the average price of three pounds per centum consolidated or reduced bank annuities as herein-before directed, as the consideration for any further life annuity or for any further annuity for term of years authorized by this act, to be valued and ascertained according to the average price of three pounds per centum annuities, and the age of the party nominated at the time of purchasing such further life annuity, in pursuance of the provisions of this act.

Annuity purchased under any act heretofore in force to be considered as one entire annuity with any annuity granted under this act.

XXXI. That whenever any person or persons shall purchase any life annuity under the provisions of this act, who shall stand possessed in the books of the said bank of any annuity depending on the life of the said nominee, under any act or acts heretofore in force enabling the said commissioners to grant life annuities, the life annuity or annuities so purchased under this act shall be added to such former life annuity, and such several life annuities shall be deemed and taken to be, to all intents and purposes, as one entire annuity depending upon the life of such nominee, as though such several annuities had been purchased under the provisions of this act; and all letters of attorney from time to time in force, which shall have been granted for the purpose of receiving such life annuities so purchased under any of the said acts, shall be valid and effectual for the purposes of this act; any thing in any act or acts, or this act, to the contrary thereof in anywise notwithstanding.

Immediate, deferred, or reversionary life annuities to be transferable entire, without change of nominee.

XXXII. That the right, title, interest, and benefit in and to any life annuity of whatsoever kind, whether such life annuity shall be immediate, deferred, or reversionary, or whether actually in the course of payment at the time of such transfer or not, which may be purchased under the provisions of this act, shall from time to time be transferrable in the books of the governor and company of the bank of England; provided that such annuity be transferred entire, and not in parts or shares, and that the original nominee or nominees of any annuity shall never be varied or changed, notwithstanding any transfer of the right or interest therein.

Annuities for years shall be transferrable.

XXXIII. That the right, title, interest, and benefit in and to any annuities for any term of years, which may be purchased under the provisions of this act, shall from time to time be transferrable, in whole or in part or parts, in the books of the said governor and company of the bank of England, during the continuance of the terms for which such annuities shall be granted.

Forms used by bank of England under former acts may be used under this act.

XXXIV. That the form and words in use in the books of the said governor and company of the bank of England, under any act or acts heretofore in force for enabling the transfer and assignment of any life annuities granted by the said commissioners for the reduction of the national debt, under the provisions of any such act or acts, shall continue and be in force, and shall be used for the transfer and assignment of any life annuities which shall be granted under this act; any thing in any act or acts, or in this act, to the contrary thereof in anywise notwithstanding.

As to the liability of annuities to taxes.

Annuities shall be personal estate.

XXXV. That life annuities and annuities for terms of years, purchased under the provisions of this act, shall not be subject or liable to any taxes, charges, or impositions whatever, other than and except such as dividends of bank annuities or long annuities are or may be subject and liable to; and that all such annuities shall be deemed personal estate; and in all cases where the same shall not depend upon the life of the person entitled thereto, shall go to the executors or administra-

tors of such person, as personal estate, and shall not be descendible to heirs.

No. I.
10 G. 4, c. 24.

XXXVI. Provided always, That whenever it shall happen that any person or persons, having made any one or more yearly payment or payments for or in respect of the purchase of any deferred or reversionary annuity under this act, or their respective executors, administrators, successors, or assigns, shall make default in paying or continuing to make the residue of such annual payments, until the whole consideration for any such annuity shall be fully paid according to the agreement for the same, then and in every such case the amount of all annual payments which shall have been made previous to such default shall be forfeited for the benefit of the public, and all right and title to any annuity in respect thereof shall be extinguished.

If annual payments are not kept up, annuity shall be forfeited.

XXXVII. That every transfer of any right, title, interest, or benefit of, in, or to any deferred or reversionary annuity, the consideration of which shall be agreed and contracted for by annual payments in money under this act, shall be entered and registered in such books as the commissioners for the reduction of the national debt shall order and direct, which entry shall be conceived in proper words for that purpose, and shall be signed by the parties making such assignment or transfer, or by their attorney or attorneys thereto lawfully authorized, in writing under hand and seal, attested by two or more credible witnesses; and that the several persons to whom such transfers shall be made shall (if the commissioners for the reduction of the national debt or the officer acting in their behalf shall require them so to do) respectively underwrite his, her, or their acceptance thereof in such books, and that no other method of assigning and transferring the title to such annuities shall be good or available in law: Provided always, That such annuities shall be transferred entire, and not in parts or shares; and that the original nominee or nominees (in case of life annuities, shall never be varied or changed, notwithstanding any transfer of any such right, title, or interest as aforesaid: Provided also, That all persons possessed of any right, title, or interest of or in such annuities may devise the same by will as personal estate, but that no payment shall be received from any devisee until so much of such will as relates to such estate or interest in such annuities be entered in such books.

Transfers of right to deferred annuities purchased by annual payments, to be registered.

Annuities to be transferred entire, and without change of nominees.

XXXVIII. That no stamp duty whatever shall be paid or payable upon or in respect of any copy of any register of the birth or baptism or burial of any nominee or other person; or upon or in respect of any certificate, affidavit, or affirmation to be made or taken in pursuance of this act; or any transfer of bank annuities or long annuities, which shall be made to the said commissioners for the reduction of the national debt under this act; or any certificate or other instrument respecting the payment of money for the purchase of any annuity under this act; or any transfer or acceptance of any such annuity in the books of the governor and company of the bank of England; or any receipt for the payment of any such annuity, or any part thereof, at the bank of England; but that the same shall be respectively free from all stamp duties whatsoever; any thing in any act or acts to the contrary notwithstanding.

Registers, transfers, receipts, &c. exempt from stamp duty.

XXXIX. That the governor and company of the bank of England shall and they are hereby required to cause to be made up to the fifth day of January in each and every year, an account of all life annuities granted by the said commissioners, in pursuance of any act heretofore in force, and of all annuities for lives or years, of whatsoever kind, granted in pursuance of this act, which shall have remained unclaimed for the space of three years then next preceding; and all such annuities so remaining unclaimed, together with the unclaimed half-yearly arrears thereof, and also all annuities for lives or years, of whatsoever kind, which shall have expired, and all half-yearly arrears thereof, shall cease to be charged upon and shall not be issued or issuable out of the said consolidated fund, from and after the day upon which any such

Bank shall make up yearly account of unclaimed annuities.

Unclaimed and expired annuities to cease as a charge upon consolidated fund;

No. I.
10 G. 4, c. 24.

but not to pre-
judice the
claim of par-
ties.

annuities for lives or years shall have remained so unclaimed or shall have expired: Provided always, That nothing in this act contained shall extend or be construed to extend to defeat or prejudice the rights of any person entitled to any such annuity for lives or years to claim the half-yearly arrears and future payments thereof: Provided also, That in respect of any life annuities such claim shall be supported by the production of the proper certificates and affidavits or affirmations in proof of the life of the nominee or nominees upon whose life or lives such life annuity depended, or upon the personal appearance of such nominee or nominees, as required by this act; and in every such case it shall and may be lawful for the said commissioners to reinstate the said annuities for lives or years so claimed, and to charge the same from time to time upon the said consolidated fund, and also all arrears thereof; and the said governor and company are hereby required, out of any sums whatever which shall have been paid to them, and carried in their books to the account of the commissioners for the reduction of the national debt, to pay the said annuities, and all arrears thereof accordingly.

Penalty on
false certificate
of age of nomi-
nee;

XL. That if any certificate or affidavit or affirmation shall be produced to the officer of the commissioners for the reduction of the national debt, which shall contain any untrue statement of the age of any person proposed or appointed to be a nominee, with intent to obtain an annuity on the continuance of the life of any person under the age of fifteen years, or to obtain any higher rate or amount of annuity during the life of any nominee or nominees than would or might be allowed under the provisions of this act, according to the true age of such nominee or nominees, then and in every such case all bank annuities or long annuities which may have been transferred, and all money which may have been paid for or on account of the purchase of such annuity, shall be forfeited to the said commissioners, and all right and title to any annuity which would or might otherwise have been payable in respect thereof shall cease and determine; and the person or persons by whom or on whose behalf such bank annuities or long annuities shall have been transferred, or such money shall have been paid, shall forfeit to his Majesty, his heirs and successors, treble the amount of any and every sum which may have been received by or on behalf of such person, on account or in respect of any such annuity, and also the further sum of five hundred pounds.

forfeiture of
the considera-
tion money and
annuity;

treble the pay-
ment received,
and 500*l*.

Penalty on
forging regis-
ter, certificate,
transfers, &c.
Felony punish-
able by death.

XLl. That if any person or persons shall forge, counterfeit, or alter, or shall cause or procure to be forged, counterfeited, or altered, or shall knowingly or wilfully act or assist in the forging, counterfeiting, or altering, any register or registers of the birth or baptism or death or burial of any person or persons to be appointed a nominee or nominees under the provisions of this act, or any copy or certificate of any such register, or the name or names of any witness or witnesses to any such certificate, or any affidavit or affirmation required to be taken for any of the purposes of this act, or any certificate of any justice of the peace or magistrate, or of any officer acting under the said commissioners for the reduction of the national debt, of any such affidavit or affirmation having been taken before him, or any certificate of any governor or person acting as such, or minister or consul, or chief magistrate of any province, town, or place, or other person authorized by this act to grant any certificate of the life or death of any nominee; or shall forge, counterfeit, or alter, or shall cause or procure to be forged, counterfeited, or altered, or shall knowingly or wilfully act or assist in the forging, counterfeiting, or altering, any certificate or certificates of any officer of the commissioners for the reduction of the national debt, or of any cashier or clerk of the bank of England, or the name or names of any person or persons in or to any transfer of any bank annuities or long annuities, or in or to any certificate or other instrument for the payment of money for the purchase of any annuity under the provisions of this act, or in or to any transfer or acceptance of any such annuity in the books of the

governor and company of the bank of England, or in or to any receipt or discharge for any such annuity, or in or to any receipt or discharge for any payment or payments due or to become due thereon, or in or to any letter of attorney or other authority or instrument to authorize or purporting to authorize the transfer or acceptance of any bank annuities or long annuities, or any life annuity, or any annuity for years of whatsoever kind, under the provisions of this act, or authorizing or purporting to authorize the receipt of any life annuity, or any annuity for years of whatsoever kind, granted under this act, or any payment or payments due or to become due thereon; or if any person or persons shall wilfully, falsely, and deceitfully personate any true and real nominee or nominees, or shall wilfully utter or deliver or produce, to any person or persons acting under the authority of this act, any such forged register or copy of register, or any such forged certificate, affidavit, or affirmation, knowing the same to be forged, counterfeited, or altered, with intent to defraud his Majesty, his heirs and successors, or with intent to defraud any person or persons whomsoever; then and in every such case all and every persons and person so offending, and being lawfully convicted thereof, shall be adjudged guilty of felony, and shall suffer death (1).

No. I.
10 G. 4, c. 24.

XLII. That if any person or persons shall, for his, her, or their own use, or the use of any other person or persons, receive any one or more payment or payments (otherwise than as authorized by this act), upon or in respect of any annuity granted under the provisions of this act, after the death of any single or surviving nominee on the continuance of whose life such annuity was payable, or after the death of either nominee, in case the annuity shall have been granted upon the joint continuance of the lives of two joint nominees, and after and beyond the time on which such annuity ought wholly to cease in consequence of the death of such nominee, by virtue of this act, knowing such nominee to be dead, and contrary to the true intent and meaning of this act; every person so offending shall forfeit to his Majesty, his heirs and successors, treble the amount of all money so received, and also the further sum of five hundred pounds.

Penalty on receiving annuity after death of nominee, treble the amount, and 500*l*.

XLIII. That all pecuniary penalties and forfeitures imposed by this act shall be recoverable, (if incurred in England,) in the name of his Majesty's attorney general, on the part of his Majesty, by information in the court of exchequer at Westminster; or (if incurred in Ireland) in the name of his Majesty's attorney general, in the court of exchequer at Dublin; or (if incurred in Scotland) in the name of his Majesty's advocate general, in the court of exchequer in Scotland; and such penalty and forfeiture shall go and belong to and shall become part of the consolidated fund: Provided always, that it shall be lawful for the commissioners for the reduction of the national debt to cause such reward as they shall think fit, not exceeding one moiety of any such penalty or forfeiture so recovered, after deducting all charges and expences incurred in recovering the same, to be paid to any person or persons who shall appear to them to be entitled thereto, as informer or informers, in respect of such penalty or forfeiture so recovered.

Recovery and application of penalties.

Reward to informers.

XLIV. That if any person, in any affidavit to be taken before any justice of the peace or magistrate, or before any officer acting under the said commissioners, under the provisions of this act, shall wilfully or corruptly swear or affirm any matter or thing which shall be false or untrue, every such person so offending, and being thereof duly convicted, shall be and is hereby declared to be subject and liable to such pains and penalties as by any laws now in force any persons convicted of wilful and corrupt perjury are subject and liable to.

Perjury.

(1) The punishment of death for forgery, except for forging or uttering wills, or powers of attorney for the transfer of stock, or receipt of dividends in the Bank, South Sea House, or Bank of Ireland, is now abolished. See *post*, Part V, Class 12, *Forgery*.

No. I.

10 G. 4, c. 24.

Certificates, &c. shall be in the form directed by the commissioners, &c.

Evidence not strictly conformable may be admitted in certain cases ;

and errors in contracts, &c. amended.

No fees to be taken.

Appointment of clerks and officers.

For defraying expences attending the execution of this act.

Quorum of commissioners.

Account to be annually laid before parliament of annuities transferred and of money paid for annuities.

Limitation of actions.

XLV. That all certificates or other instruments whatever required for carrying this act into execution shall be in such form and under such regulations as the commissioners for the reduction of the national debt, or the comptroller general or assistant comptroller acting under the said commissioners, shall from time to time direct and approve : Provided always, that in all cases whatever relating to the purchase or receipt of any annuity for lives or years, of whatsoever kind, under the provisions of this act, it shall be lawful for the said commissioners, or for the comptroller general or assistant comptroller acting under the said commissioners, and they are hereby severally authorized and empowered, where any evidence shall be produced by any person for the purchase or receipt of any such annuity, not strictly conformable to the provisions of this act, to admit such evidence for the purposes of this act respecting the same as shall or may appear to the said commissioners, or the said comptroller general or assistant comptroller, to be satisfactory ; and also to correct, rectify, and amend any contract for any such annuity, or certificate or other instrument, in cases wherein any mistake or accidental error shall or may have been made in the execution of this act ; any thing in this act to the contrary thereof in anywise notwithstanding.

XLVI. That no fee whatever shall be received or taken by any officer acting under the commissioners for the reduction of the national debt, for granting any certificate, or for any act, matter, or thing to be done in pursuance of this act.

XLVII. That it shall be lawful for the commissioners for the reduction of the national debt, and they are hereby authorized and empowered, from time to time to appoint such officers, clerks, and other persons as may be necessary for carrying this act into execution, and as may be approved by the commissioners of his Majesty's treasury.

XLVIII. That it shall be lawful for the lord high treasurer, or the commissioners of his Majesty's treasury, or any three or more of them, for the time being, to order and direct to be issued and paid, out of the fund upon which the establishment of the commissioners for the reduction of the national debt is chargeable, any sum or sums of money for the payment of salaries to officers and clerks acting in the execution of this act, and for discharging such incidental expences as shall necessarily attend the execution thereof, in such manner as the said lord high treasurer, or commissioners of the treasury, or any three or more of them, shall from time to time think fit and reasonable ; and also to settle and appoint such allowances as shall be proper for the pains and labour of the cashier or cashiers, or other officer or officers of the governor and company of the bank of England, in the execution of this act, which last-mentioned allowances shall be for the use and benefit of the said governor and company, and at their disposal only.

XLIX. That it shall be lawful for any three or more of the commissioners for the reduction of the national debt for the time being, to execute and do all matters and things which the said commissioners are required or empowered to do for the execution of this act.

L. That there shall be prepared, and annually laid before both houses of parliament, on or before the twenty-fifth day of March in every year, if parliament shall be then sitting, and if parliament shall not be then sitting, then within fourteen days after the commencement of the then next session of parliament, an account made up by the commissioners for the reduction of the national debt, to the fifth day of January preceding of the gross amount of all bank annuities and long annuities, and any other annuities for terms of years, transferred, and of all sums of money paid to the said commissioners, and the gross amount of annuities for lives and for terms of years which shall have been granted for the same, under the provisions of this act, within the year ending on the fifth day of January as aforesaid.

LI. That if any action or suit shall be brought against any person or persons for any thing done in pursuance or by virtue of this act, such action or suit shall be commenced within three calendar months next

after the fact committed, and not afterwards; and the defendant or defendants in every such action or suit may plead the general issue, and give this act and the special matters in evidence at any trial to be had thereupon; and if the jury shall find for the defendant or defendants in any such action or suit, or if the plaintiff or plaintiffs shall be nonsuited, or discontinue his, her, or their action or suit after the defendant or defendants shall have appeared, or if, upon demurrer, judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall have treble costs, and have the like remedy for the same as any defendant hath in other cases to recover costs by law.

No. I.

10 G. 4, c. 24.

General issue.

Treble costs.

[No. II.] 2 & 3 W. IV. c. 59.—An Act to transfer the Management of certain Annuities on Lives from the Receipt of His Majesty's Exchequer to the Management of the Commissioners for the Reduction of the National Debt; and to amend an Act for enabling the said Commissioners to grant Life Annuities and Annuities for Terms of Years.

[4th July 1832.]

WHEREAS certain annuities on lives have been created at various periods by sundry acts of parliament; (that is to say), by an act passed in the eighteenth year of the reign of his Majesty king George the second, intituled *An Act for granting to his Majesty several additional Duties upon all Wines imported into Great Britain, and for raising a certain Sum of Money by Annuities and a Lottery, in manner therein mentioned, to be charged on the said additional Duties*; and also by an act passed in the nineteenth year of his said Majesty, intituled *An Act for granting to His Majesty several Rates and Duties upon Glass and upon Spirituous Liquors, and for raising a certain Sum of Money by Annuities and a Lottery, to be charged on the said Rates and Duties; and for obviating some Doubts about making out Orders at the Exchequer for the Monies advanced upon the Credit of the Salt Duties granted and continued to His Majesty by an Act of the last Session of Parliament*; also by an act passed in the thirtieth year of the reign of his said Majesty intituled *An Act for granting to His Majesty several Rates and Duties upon Indentures, Leases, Bonds, and other Deeds, and upon Newspapers, Advertisements, and Almanacks, and upon Licences for retailing Wine, and upon Coals exported to Foreign Parts; and for applying, from a certain Time, the Sums of Money arising from the Surplus of the Duties on Licences for retailing Spirituous Liquors; and for raising the Sum of Three Millions by Annuities to be charged on the said Rates, Duties, and Sums of Money; and for making perpetual an Act made in the Second Year of the Reign of His present Majesty, intituled 'An Act for the better Regulation of Attornies and Solicitors'; and for enlarging the Time for filing Affidavits of the Execution of Contracts of Clerks to Attornies and Solicitors, and also the Time for Payment of the Duties omitted to be paid for the Indentures and Contracts of Clerks and Apprentices*; and also by an act passed in the fifth year of the reign of his Majesty king George the third, intituled *An Act for granting Annuities, to be attended with a Lottery, to satisfy and discharge certain Navy, Victualling, and Transport Bills, and for charging the Payment of such Annuities on the Sinking Fund*; and also by an act passed in the eighteenth year of the reign of his said Majesty king George the third, intituled *An Act for raising a certain Sum of Money by way of Annuities, and for establishing a Lottery*; and also by an act passed in the nineteenth year of the reign of his said Majesty king George the third, intituled *An Act for raising a certain Sum of Money by way of Annuities, and for establishing a Lottery*; and also by an act passed in the twenty-ninth year of the reign of his said Majesty king George the third, intituled *An Act for raising a certain Sum of Money by*

18 G. 2, c. 9.

19 G. 2, c. 12.

30 G. 2, c. 19.

5 G. 3, c. 23.

18 G. 3, c. 22.

19 G. 3, c. 18.

29 G. 3, c. 41.

No. II.
2 & 3 W. 4,
c. 59.

30 G. 3, c. 45.

So much of recited acts as relate to the management and payment of annuities for lives at the exchequer, repealed.

Annuities created by recited acts transferred to management of commissioners for reduction of national debt.

Orders for payment of annuities remaining on 5th July 1832, to be delivered to commissioners by clerk of the pells.

Tellers of exchequer to pay dividends in their hands as out cash on 5th July 1832, into bank of England.

Certain parts of 30 G. 3, c. 45, and 10 G. 4, c. 24, repealed.

way of *Annuities*, to be attended with the Benefit of *Survivorship in Classes*; and also by an act passed in the thirtieth year of the reign of his said Majesty king George the third, intituled *An Act for converting certain Annuities to be attended with the Benefit of Survivorship in Classes, established by an Act of the last Session of Parliament, into certain Annuities for an absolute Term of Years, and for enabling the Commissioners of the Treasury to nominate Lives for the Shares so converted*; which said several annuities on lives were by the said recited acts placed under the management and made payable at the receipt of his Majesty's exchequer: And whereas it is expedient that the said annuities should be transferred to the management of the commissioners for the reduction of the national debt, and be regulated by one general system of payment, in common with all other life annuities due to the public creditor; and it is therefore expedient to repeal so much of the said recited acts as relate to the management and payment of the said annuities at the receipt of the said exchequer: Be it therefore enacted, &c., That so much of the said recited acts as relates to the management, assignment, and payment of the said annuities on lives at the receipt of his Majesty's exchequer, shall be and the same is hereby repealed.

II. That after the passing of this act, or as soon after as the necessary arrangements can be made, of which the said commissioners shall give notice in the *London Gazette*, the said several annuities on lives which were created by the said several recited acts shall be placed under the management of the commissioners for the reduction of the national debt, and shall be payable and paid at the bank of England, under the regulations herein-after directed.

III. That all orders made out for the payment of any annuity under the provisions of the said first recited acts or either of them, which on the fifth day of July one thousand eight hundred and thirty-two shall be remaining in the office of the clerk of the pells of his Majesty's receipt of exchequer, shall be delivered over by him to the said commissioners for the reduction of the national debt, or to the comptroller general or assistant comptroller acting under the said commissioners, upon his receiving directions to that effect from the commissioners of his Majesty's treasury; and all dividends or annuities created by any of the said first-recited acts which shall have been directed by the auditor of his Majesty's said exchequer to be paid by the tellers thereof, but which shall not have been paid by them on the said fifth day of July one thousand eight hundred and thirty-two, and which shall be then remaining in their hands under the denomination of out cash, shall be paid over by the said tellers to the governor and company of the bank of England, upon their receiving directions so to do from the commissioners of his Majesty's said treasury; and the cashiers of the said bank are hereby required to receive the same, and to carry such monies to the account of the said commissioners for the reduction of the national debt.

IV. And whereas an act was passed in the tenth year of the reign of his late Majesty king George the fourth, intituled *An Act to enable the Commissioners for the Reduction of the National Debt to grant Life Annuities and Annuities for Terms of Years*, which said life annuities were by the said act made payable and transferrable at the bank of England: And whereas it is expedient to repeal certain provisions of the said last-recited act, and of the said recited act of the thirtieth year of the reign of his Majesty king George the third, and to substitute other provisions in lieu thereof; be it therefore enacted, That so much of the said recited act of the thirtieth year of the reign of his Majesty king George the third as relates to transmitting lists by commissioners of treasury to parishes for returns certifying the lives of nominees, and of the said recited act of the tenth year last aforesaid, as relates to granting certificates of the existence of nominees, and to the making certain affidavits and solemn affirmations by persons desirous of purchasing such an-

nuities, in cases where proof of the age and identity of nominees has been before produced to the said commissioners, certified and verified according to the provisions of the said act, and as relates to affidavits and solemn affirmations in cases where the nominee shall not appear personally before the officers of the said commissioners, to enable such persons to receive the half-yearly payments from time to time of every such life annuity, and also for receiving the one fourth part of any expired life annuity which shall be claimed under the provisions of the said act, and as relates to the paying and transferring such annuities at the bank of England, shall be and the same are hereby repealed.

V. That in all cases in which any affidavit or solemn affirmation was required by any of the said recited acts aforesaid, the person or persons who would, under the said recited acts, be required to take or make such affidavit or solemn affirmation, shall make and subscribe a declaration in lieu thereof, in such form and words and under such regulations as may be directed by the said commissioners, or by the comptroller general or assistant comptroller acting under the said commissioners; and if any such declaration shall be untrue in any particular, the person making the same shall, over and above every other penalty to which such person may become subject, forfeit the sum of one hundred pounds.

VI. Provided always, That if after the passing of this act any affidavit or solemn affirmation shall be produced for the purpose of receiving any life annuity under the provisions of the said recited acts, such affidavits and solemn affirmations, notwithstanding the repeal thereof by this act, shall be deemed valid and effectual for the purpose of receiving such life annuities, any thing in this act to the contrary thereof in anywise notwithstanding.

VII. Provided nevertheless, That the said commissioners, or comptroller general or assistant comptroller acting under the said commissioners, may in any case require any such person or persons to make affidavit or solemn affirmation in confirmation of any such declaration, and every such person shall, and he, she, or they is and are hereby thereupon required to make such affidavit or solemn affirmation before such comptroller general or assistant comptroller, or other officer appointed for that purpose by the said commissioners, who are hereby respectively authorized to administer the same, or before any justice of the peace or magistrate, any thing in this act to the contrary thereof notwithstanding.

VIII. That upon proof of the existence of the nominee of any life annuity created by any of the said first-recited acts, or by the said recited act of the tenth year of the reign of his late Majesty, or of any life annuity which may hereafter be created by the said last-recited act, either by the personal appearance of such nominee before the officer of the said commissioners, or, in case of the nonappearance of such nominee, by the production of a certificate proving the existence of such nominee as is required by the said recited acts, together with such declaration aforesaid, or other evidence to the satisfaction of the said commissioners, or of the officer or officers acting under the said commissioners, the said officer shall thereupon issue to the person or persons entitled to any annuity depending upon the life of such nominee a warrant or warrants in such form as shall be approved by the said commissioners, or by the comptroller general or assistant comptroller acting under the said commissioners, addressed to the cashiers of the governor and company of the bank of England, for the half-yearly payment or payments of the annuity which shall be then depending upon the life of such nominee; or upon proof of the death of the said nominee, then a warrant shall be issued by the said officer for the payment of one fourth part of the expired annuity which depended upon the life of such nominee, which, under the provisions of the said act of the tenth year of the reign of king George the fourth, is allowed to be claimed by the person or persons entitled thereto, provided such fourth part shall be

No. II.
2 & 3 W. 4,
c. 59.

A declaration to be made in lieu of the affidavit or affirmation hitherto required by persons purchasing and receiving life annuities.

Such affidavits produced after passing of this act to be valid.

Affidavit may be required in certain cases.

Upon proof of nominees being living, or of deaths, warrants to be issued, upon which the bank to pay.

No. II.
2 & 3 W. 4,
c. 59.

Holders of annuities under first-recited acts to have like annuities in the books of the commissioners; and all life annuities to be transferable in such books entire for the life of the original nominee.

Commissioners may direct new orders to be made out and signed, in lieu of orders lost or destroyed, without authority from treasury, as required by 29 G. 3, c. 41.

Accounts of annuities for terms of years unclaimed for ten years, to be made up quar-

claimed by the person or persons entitled thereto within the period prescribed by the said recited act, together with any half-yearly payment of the said annuity which may be outstanding at the time of his or her death; and upon the said warrant or warrants being produced and lodged at the said bank, the said cashier or cashiers shall pay the sum expressed therein to the person or persons producing the same.

IX. That all persons who at the time of the passing of this act shall be holders of and stand possessed of any exchequer order or orders for or in respect of any annuities on lives created by any of the said first-recited acts, heretofore payable at the receipt of his Majesty's exchequer, or who at the time of the passing of this act shall stand possessed, in the books of the said governor and company of the bank of England, of any annuity depending upon the life of the said nominee, under any act or acts heretofore in force enabling the said commissioners for the reduction of the national debt to grant life annuities, shall be deemed and taken to all intents and purposes to stand possessed of such several and the like annuities in the books of the said commissioners, and shall be entitled to all the several rights, titles, interests, and benefits in and to any life annuity, of whatsoever kind, whether such life annuity shall be immediate or deferred, or whether actually in the course of payment at the time of the passing of this act, or not, according to the several provisions of the said recited acts or of any of them; and such several life annuities, and also all life annuities which may hereafter be created in pursuance of the said recited act of the tenth year of his late Majesty, shall from time to time be transferable in the books of the said commissioners for the reduction of the national debt, or, so far as relates to any exchequer life annuities or orders, shall be assignable and shall be paid to and shall be transferable and assignable by the persons respectively entitled to such annuities, or by some person duly authorized to receive or transfer the same, according to such form and under such regulations as shall be approved of by the said commissioners for the reduction of the national debt, or by the said comptroller general or assistant comptroller acting under the said commissioners: Provided always, that such annuity shall be transferred entire, and not in parts or shares, and that the original nominee of any annuity shall never be varied or changed, notwithstanding such transfer.

X. That it shall be lawful for the said commissioners for the reduction of the national debt to authorize the comptroller general, or his assistant, to make out and sign any new order, in such form as the said commissioners shall direct, as a substitute for and in lieu of any order of a like description which may have been lost or destroyed or become defaced or obliterated, without any such authority from the commissioners of his Majesty's treasury, or certificate from any judge of the court of exchequer, as is specified and required in the said recited act of the twenty-ninth year of the reign of his Majesty king George the third, or in any case whatever relating to any of the said recited acts, upon proof being given to the satisfaction of the said commissioners, by the oath or solemn affirmation to be made and taken before the said comptroller general or assistant comptroller, or before any justice of the peace or magistrate, by the persons applying for such new order, or any other person, of such loss or destruction, or production of the order in lieu of which a new order is required; and all such new orders, so signed, shall be deemed good and valid to all intents and purposes as if the same had been made under the provisions of the said recited acts or either of them, any thing in the said recited acts to the contrary notwithstanding.

XI. And whereas it is enacted by the said recited act of the tenth year of his late Majesty, that the governor and company of the bank of England shall cause to be made up, to the fifth day of January in each year, an account of all annuities for terms of years granted by the said commissioners for the reduction of the national debt, in pursuance of the said act, which shall have remained unclaimed for the space of three

years then next preceding, which annuities so remaining unclaimed, and all half-yearly arrears thereof, shall cease to be charged upon and shall not be issued or issuable out of the said consolidated fund from and after the day upon which any such annuities shall have remained so unclaimed: And whereas it is expedient that all such unclaimed annuities for terms of years should be regulated by the same rules as are directed by an act passed in the fifty-sixth year of the reign of his Majesty king George the third, intituled *An Act to authorize the transferring Stock upon which Dividends shall remain unclaimed for the Space of at least Ten Years at the Bank of England, and also all Lottery Prizes or Benefits, and Balances of Sums issued for paying the Principals of Stocks or Annuities, which shall not have been demanded for the same Periods, to the Commissioners for the Reduction of the National Debt*; be it enacted, That the governor and company of the bank of England shall cause to be made up quarterly an account of all annuities for terms of years already granted or which may hereafter be granted by the said commissioners under the provisions of the said recited act of the tenth year of his late Majesty, which shall have remained unclaimed for the space of ten years then next preceding such quarters respectively; and all such unclaimed annuities and all arrears thereof shall be transferred to the commissioners for reduction of the national debt, and shall be subject to the like restrictions and regulations as all other capital stocks and annuities are now subject by the said recited act of the fifty-sixth year of his said Majesty; any thing in any act to the contrary thereof notwithstanding.

XII. That for the purpose of ascertaining from time to time the amount of annuities for lives payable under the authority of the said several first-recited acts, the comptroller general or assistant comptroller acting under the said commissioners shall, within fourteen days next preceding the fifth day of January, the fifth day of April, the fifth day of July, and the tenth day of October in each and every year, (commencing on the tenth day of October one thousand eight hundred and thirty-two,) certify to the commissioners of his Majesty's treasury the amount of annuities for lives (first deducting therefrom the amount chargeable on account of the several lives nominated by the commissioners of the treasury under the provisions of the said recited act of the thirtieth year of king George the third) the half-yearly payments of which shall from time to time be chargeable, and the same are hereby made chargeable, upon the said consolidated fund, on each of such days respectively; and the said commissioners of the treasury, or any three or more of them, shall thereupon order and direct, by warrant under their hands, the sums specified from time to time in every such certificate to be issued and paid out of the consolidated fund from time to time to the governor and company of the bank of England, to be by them placed to the account of the commissioners for the reduction of the national debt, for the purpose of paying all such annuities respectively created by the said first-recited acts of the eighteenth, nineteenth, and thirtieth years of king George the second, and by the fifth, eighteenth, and twenty-ninth years of king George the third.

XIII. That all letters of attorney from time to time in force, which shall have been granted for the purpose of transferring or selling or receiving such life estate so purchased under any of the said recited acts, shall be valid and effectual for the purposes of this act, and receiving the same under the provisions of this act; any thing in any act or acts, or this act, to the contrary notwithstanding.

XIV. That the commissioners for the reduction of the national debt are hereby empowered from time to time to appoint such officers, clerks, and other persons as may be necessary for carrying this act into execution, and as may be approved of by the commissioners of his Majesty's treasury.

XV. And whereas it is expedient to give legal remedies to persons entitled to any annuities transferred under the provisions of this act from the books of the governor and company of the bank of England

No. II.
2 & 3 W. 4,
c. 59.

terly at the bank; and the annuities to be transferred to the commissioners, and placed under the like regulations as other stocks are subject by 56 G. 3, c. 60.

Commissioners of national debt to certify to the treasury before each quarter day the amount of annuities payable under the recited acts of the 18th, 19th, & 30th of G. 2, and the 5th, 18th, & 29th of G. 3.

Letters of attorney to continue valid for receiving annuities under this act.

Appointment of officers, &c.

Suit, &c. may be instituted against the

No. II.
3 & 4 W. 4,
c. 59.

comptroller or
assistant comp-
troller in all
cases in which
the bank would
have been
liable if the
annuity had
remained in
their books.

to the books of the commissioners for the reduction of the national debt; be it therefore enacted, That in all cases in which any person entitled to or interested in any annuity transferable in the books of the governor and company of the bank of England, or in any annuity recorded in the books of the said auditor of his Majesty's exchequer, might have instituted any action, suit, or legal proceeding in any court of law or equity, for or in respect of any act, matter, or thing done by the said governor and company, or by the said auditor, or their officers, or any other person or persons, in relation to any such annuity, or any forged or other illegal transfer thereof, such action, suit, or legal proceeding may be instituted and carried on against the comptroller general of the said commissioners or the assistant comptroller general of the said commissioners for the time being, and damages recovered or other remedy given in any court of law or equity against such comptroller or assistant as might have been recovered or given against the governor and company of the bank of England in case the said annuity had remained transferable in the books of the governor and company of the bank of England, or against the said auditor in case the said annuity stood recorded in the books of the said auditor; and all damages and sums of money and costs recovered in any such suit or proceeding shall be paid by the order of the commissioners of the treasury, or any three or more of them, for the time being, (which order the said commissioners are hereby required to give,) out of any of the aids and supplies voted by parliament for the public service: Provided always, That the body, or goods, chattels, lands, or tenements of such comptroller or assistant comptroller, shall not, by reason of his being defendant, under the provisions of this act, in any such suit, action, or party in any such proceeding, be liable to be arrested, seized, detained, or taken in execution; and no such suit shall abate on the death or removal from office of the comptroller or assistant comptroller against whom the said suit was had, but shall continue in full force against his successor.

Declaration,
&c. not to be
stamped.

XVI. That no declaration required by this act to be made to the commissioners for the reduction of the national debt, nor any warrant, certificate, affidavit, or affirmation, or other instrument, (save and except all letters of attorney which shall or may be granted from time to time for the purposes of this act,) made out by or under the authority of the said commissioners, shall be liable to the payment of any stamp duty.

Powers of
treasury and
auditor of ex-
chequer, as to
annuities under
first-recited
acts, to cease
on 5th July;
and those of
the bank under
10 G. 4, &c.
to expire on
30th July 1832.

XVII. That all the powers and authorities of the commissioners of the treasury and of the auditor of the exchequer, so far as the same are applicable to the management and payment, or to any other matter or thing relating to any life annuities created by the said first-recited acts, shall cease and determine on and from and after the fifth day of July one thousand eight hundred and thirty-two; and all the powers and authorities of the governor and company of the bank of England, so far as the same are applicable to the said recited act of the tenth year of his late Majesty king George the fourth, or to any other act enabling the commissioners of the national debt to grant life annuities (except as in this act provided), shall cease and determine on and from and after the thirtieth day of June one thousand eight hundred and thirty-two.

Powers of
auditor of ex-
chequer and
governor and
company of
bank to be ex-
ercised by the
commissioners.

XVIII. That all the powers and authorities which are by the said recited acts, or any or either of them, respectively given to the commissioners of the treasury, or to the auditor of the exchequer, or to the governor and company of the bank of England, or to their respective officers, or any officer or servant acting under them respectively, in relation to any annuity by this act placed under the management of the commissioners for the reduction of the national debt, or to any matter or thing required by any of the said recited acts to be done by the said commissioners of the treasury, or by the said auditor, or by the said governor and company, shall and may be used and exercised and put in force for all the purposes of this act, and for the more effectual carrying the provisions thereof into execution, by the said commissioners for the reduction of the national debt, or by any person acting under their authority, as fully to all intents and purposes, so far as the same are not

altered by this act, as if the same were severally re-enacted in this act, and expressly given to the said commissioners.

XIX. That if any person or persons shall forge, counterfeit, or alter, or shall cause or procure to be forged, counterfeited, or altered, or shall knowingly or wilfully act or assist in the forging, counterfeiting, or altering, any declaration, warrant, order, or other instrument, or any affidavit or affirmation required to be made by this act, or by the commissioners for the reduction of the national debt, under any of the provisions of this act, or under any authority given to them for that purpose; or shall forge, counterfeit, or alter, or shall cause or procure to be forged, counterfeited, or altered, or shall knowingly or wilfully act or assist in the forging, counterfeiting, or altering, any certificate or order of any officer of the commissioners for the reduction of the national debt, or the name or names of any person or persons in or to any transfer of any annuity, or in or to any certificate, order, warrant, or other instrument for the payment of money for the purchase of any annuity under the provisions of this act, or in or to any transfer or acceptance of any such annuity in the books of the commissioners for the reduction of the national debt, or in or to any receipt or discharge for any such annuity, or in or to any receipt or discharge for any payment or payments due or to become due thereon, or in or to any letter of attorney or other authority or instrument to authorize or purporting to authorize the transfer or acceptance of any annuities or any life annuity of whatsoever kind, or authorizing or purporting to authorize the receipt of any life annuity of whatsoever kind granted under any of the said recited acts or this act, or any payment or payments due or to become due thereon; or if any person or persons shall wilfully, falsely, and deceitfully personate any true and real nominee or nominees, or shall wilfully utter or deliver or produce to any person or persons acting under the authority of this act any forged register or copy of register of any birth, baptism, or marriage, or any forged declaration, affidavit, or affirmation, knowing the same to be forged, counterfeited, or altered, with intent to defraud his Majesty, his heirs and successors, or with intent to defraud any person or persons whomsoever; then and in every such case all and every person and persons so offending, and being lawfully convicted thereof, shall be adjudged guilty of felony, and suffer death.

XX. That the lord high treasurer, or the commissioners of his Majesty's treasury, or any three or more of them, for the time being, may order and direct to be issued and paid, out of the fund upon which the establishment of the commissioners for the reduction of the national debt is chargeable, any sum or sums of money for the payment of salaries to officers and clerks acting in the execution of this act, and for discharging such incidental expences as shall necessarily attend the execution thereof, in such manner as the said lord high treasurer, or commissioners of the treasury, or any three or more of them, shall from time to time think fit and reasonable, and also for the payment of all such damages, costs, charges, and expences as shall be recovered against or payable under the provisions of this act by the comptroller general or assistant comptroller general of the said commissioners, which last-mentioned damages, costs, charges, and expences shall be payable and paid out of any aids or supplies granted by parliament, and applicable to any public service.

No. II.
2 & 3 W. 4,
c. 59.

Penalty on forging register, certificate, transfers, &c. Felony punishable by death (1).

Treasury may order issues of money for payment of salaries.

(1) But now see *post*, Part V, Class 12, *Forgery*.

PART III.

CLASS VII.

GAMING.

[The 4 G. 4, c. 60, was the last act authorizing a public lottery, since which time they have discontinued; and the provisions of the 10 & 11 W. 3, c. 17, whereby all lotteries were declared public nuisances, are now in full force.

By an act of the 1 & 2 W. 4, for the improvement of Glasgow, authority was inadvertently given to raise money for that purpose by way of lottery; but all future lotteries under that statute were prohibited by the 4 & 5 W. 4, c. 37.

In the recent act 5 & 6 W. 4, c. 41, amending the law relating to securities arising out of gaming transactions, see *ante*, USURY, p. 321.

See also, *post*, Part VI., Class 20.]

PART III.

CLASS VIII.

STOCK JOBBING.

[There has been no statute on this subject since 7 G. 2, c. 8, made perpetual by the 10 Geo. 2, c. 8.]

PART III.

CLASS IX.

SALE OF OFFICES.

[No I.] 6 G. 4, c. 82.—An Act to abolish the Sale of Offices in the Court of King's Bench in England, to make Provision for the Lord Chief Justice of the said Court, and to grant an additional Annuity to the said Lord Chief Justice on Resignation of his Office. [5th July 1825.]

WHEREAS the several offices of chief clerk, clerk of the treasury, and custos brevium, and filazer, exigenter, and clerk of the outlawries of the court of king's bench in England, are in the gift of the lord chief justice of the same court, and deemed to be saleable by him, as and when the same from time to time become vacant: And whereas the several offices of clerk of the rules on the plea side, clerk of the papers on the plea side, clerk of the declarations, clerk of the common bails, estreats and postea's, and clerk of the dockets of the same court, are in the gift of the said chief clerk, and deemed to be saleable by him; and the several offices of clerks of the inner and outer treasury, clerks of nisi prius in London and other cities, and on the several circuits, and bagbearer on the plea side of the same court, are in the gift of the said custos brevium, and deemed to be saleable by him: And whereas the said several offices are held for the respective lives of the persons now holding the same (or for the life of the survivor of two persons where the office is now vested in two persons), and the emoluments thereof are derived entirely from the fees payable by the suitors of the same court; and some thereof are and for many years past have been executed by deputy; and the emoluments of some others thereof, which are executed in person, are greater than the nature and duties thereof, considered apart from other circumstances relating thereto, would require: And whereas it is expedient to abolish the sale of all such of the said offices as are now saleable, without prejudice however to the rights of any of the persons now holding the same, or having the right of appointment thereto, except only the lord chief justice of the said court; whereby a more uniform and more constant provision may be made for maintaining the honour and dignity of the office of lord chief justice of the same court, and a fund may be hereafter raised, which may be applied towards the payment of the salaries of the chief justice and other judges of the same court, in case of the public revenue; be it therefore enacted, &c., That the said offices of chief clerk, clerk of the treasury, and custos brevium, and filazer, exigenter, and clerk of the outlawries, shall from and after the passing of this act, and the said several offices herein-before mentioned to be in the gift of the said chief clerk, shall from and after the time when the said office of chief clerk shall become vacant, and the said several offices herein-before mentioned to be in the gift of the said custos brevium, shall from and after the time when the said office of custos brevium shall become vacant, be disposed of; and all appointments to the said respective offices, as they may respectively become vacant, shall be made

Certain offices after they become vacant to be no longer saleable, and future appointments to be regulated by this act.

No. I.
6 G. 4, c. 82.

Offices to be executed in person, and not by deputy, unless for some reasonable cause.

Appointments to be made by the chief justice, *quam diu se bene gesserint*.

Remedy in case of misbehaviour.

How and for what cause a deputy may be appointed.

according to the directions of this act, and not otherwise; and all and every the persons to be so appointed to the said several offices, shall continually execute the same in person, and not by deputy, unless for some reasonable cause to be allowed, as herein-after mentioned; and every such officer and his deputy, to be appointed according to the directions of this act, shall be deemed and taken to be a public accountable officer, to all intents and purposes, and shall severally account for the fees and emoluments of his office, according to the directions of this act.

II. That all appointments to the said several offices to be made by virtue of this act shall be made by the lord chief justice of the said court for the time being, by warrant under his hand and seal, without any fee, gratuity, or reward, to be directly or indirectly paid to or received for the same; and every such appointment shall be made, and shall be in such warrant expressed to be made, during the good behaviour of the person appointed, and for so long time only as the person appointed shall execute the same in person: Provided always, that no such office shall be vacated by reason of the officer's not executing his office in person, if he shall execute the same by some deputy to be appointed by virtue of this act; nor in cases of occasional illness, or other like necessary cause of absence, not continuing more than two months at any one time.

III. That if any person to be appointed by virtue of this act shall demean himself in any manner contrary to the true intent and meaning hereof, or otherwise misbehave himself, it shall be lawful for the said court to hear and decide upon such misbehaviour, and also to hear and determine all complaints that may be made against such person in a summary way, and by rule of the same court, to order compensation to be made to any person injured by such misbehaviour, or to fine such offender, or to make void his appointment, or punish the offender by all or any the ways aforesaid, as to such court in its discretion shall seem fit.

IV. Provided always, That in case any officer to be appointed by virtue of this act shall, by ill-health or other infirmity, become incapable of discharging the duties of his said office, or shall from any other reasonable cause, to be allowed by the said lord chief justice, be desirous of being relieved from the discharge of the duties thereof, either permanently or for a certain time only, it shall and may be lawful for the said chief justice to appoint some fit and proper person to act as the deputy of such officer; the cause of such appointment being always distinctly mentioned and specified in the warrant of such appointment.

[The rest of the act has been omitted as not bearing immediately on the subject of this Class.]

[No. II.] 6 G. 4, c. 83.—An Act to abolish the Sale of Offices in the Court of Common Pleas in England, to make Provision for the Lord Chief Justice of the said Court, and to grant an additional Annuity to the said Lord Chief Justice on Resignation of his Office. [5th July 1825.]

WHEREAS the several offices of chief and third prothonotaries, clerk of the king's silver, clerk of the jurata, clerk of the essoigns, clerk of the warrants, enrolments and estreats, exigenter, clerk of the super-sedeas, filasers for all the counties in England, and clerk of the errors in the exchequer chamber, are appointed by the lord chief justice of the common pleas, and are saleable by him, as and when the same from time to time become vacant: And whereas the offices of second protho-

notary and clerk of the juries are appointed by the said lord chief justice, on the nomination of the custos brevium, for which last-mentioned appointment the said lord chief justice has been deemed entitled to, and has always received, whenever such appointments have been made, certain fees: And whereas each of the three prothonotaries of the said court has the appointment of one secondary: And whereas the said several offices are held for the respective lives of the persons now holding the same, and the emoluments thereof are derived entirely from the fees payable by the suitors of the same court; and some of such offices are and for many years past have been executed by deputy; and the emoluments of some others thereof which are executed in person, are greater than the nature and duties thereof, considered apart from other circumstances relating thereto, would require: And whereas it is expedient to abolish the sale of all such of the said offices as are now saleable, whereby a more equal provision may be made for maintaining the honour and dignity of the office of the lord chief justice of the same court, and a fund may be hereafter raised which may be applied towards the payment of the salaries of the chief justice and other judges of the same court, in ease of the public revenue: And whereas the duties of the first and third prothonotary might be well discharged by one person, and the duties of secondary to the first prothonotary and secondary to the third prothonotary might also be discharged by one person, and by thus reducing the number of officers, the fund which might be hereafter raised for the benefit of the public may be considerably increased: Be it therefore enacted, &c., That the said offices of chief and third prothonotaries, clerk of the king's silver, clerk of the jurata, clerk of the essoigns, clerk of the warrants, enrolments and estreats, exigenter, clerk of the supersedeas, filazers for all the counties in England, and clerk of the errors in the exchequer chamber, shall be disposed of, and all appointments to the said respective offices, as they may respectively become vacant, shall be made according to the directions of this act, and not otherwise; and all and every the persons to be so appointed to the said several offices, shall continually execute the same in person, and not by deputy, unless for some reasonable cause to be allowed, as herein-after mentioned; and every such officer and his deputy, to be appointed according to the directions of this act, shall be deemed and taken to be a public accountable officer, to all intents and purposes, and shall severally account for the fees and emoluments of his office, according to the directions of this act.

No. II.
6 G. 4, c. 83.

Certain offices to be no longer saleable; and as they become vacant, future appointments to be regulated by this act.

Offices to be executed in person, and not by deputy, unless for reasonable cause.

II. That all appointments to the several offices to be made by virtue of this act shall be made by the lord chief justice of the said court for the time being, by warrant under his hand and seal, without any fee, gratuity, or reward, to be directly or indirectly paid to or received for the same by the lord chief justice or any judge of the said court; and every such appointment, except the appointment of the filazers, shall be made, and shall be in such warrant expressed to be made, during the good behaviour of the person appointed, and for so long time only as the person appointed shall execute the same in person: Provided always, that no such office shall be vacated by reason of the officer's not executing his office in person, if he shall execute the same by some deputy to be appointed by virtue of this act, nor in cases of occasional illness, nor other like necessary cause of absence, not continuing more than two months at any one time.

Appointments to be made by the chief justice, quam diu se bene gesserint.

III. That if any person to be appointed by virtue of this act shall demean himself in any manner contrary to the true intent and meaning hereof, or otherwise misbehave himself, it shall be lawful for the said court to hear and decide upon such misbehaviour, and also to hear and determine all complaints that may be made against such person, in a summary way, and by rule of the same court to order compensation to be made to any person injured by such misbehaviour; or to fine such offender, or make void his appointment, or punish the offender by all or

Remedy in case of misbehaviour.

No. II. any of the ways aforesaid, as to such court in its discretion shall seem
6 G. 4, c. 83. fit.

How and for what cause a deputy may be appointed. IV. Provided always, That in case any officer to be appointed by virtue of this act shall, by ill-health or other infirmity, become incapable of discharging the duties of his said office, or shall for any other reasonable cause, to be allowed by the said lord chief justice, be desirous of being relieved from the discharge of the duties thereof, either permanently or for a certain time only, it shall and may be lawful for the said lord chief justice to appoint some fit and proper person to act as a deputy of such officer; the cause of such appointment being always distinctly mentioned and specified in the warrant of such appointment.

[The rest of the act is omitted, as not being connected with the sale of offices.]

PART III.

CLASS XI.

TRANSFER OF STOCK.

[No. I.] 11 G. IV. c. 13.—An Act for transferring certain Annuities of Four Pounds per centum per annum, into Annuities of Three Pounds and Ten Shillings or Five Pounds per centum per annum. [3rd May 1830.]

[No. II.] 3 & 4 W. IV. c. 31.—An Act for transferring certain Annuities of Four Pounds per centum per annum, into Annuities of Three Pounds and Ten Shillings per centum per annum; and for providing for paying off the Persons who may dissent to such Transfer. [25th July 1834.]

[For the transfer of stock vested in trustees; see *ante*, Part II, Class I.

See also a recent statute relating to the transfer of stock; *ante*, Part III, Class VI.]

[No. III.] 3 & 4 W. IV. c. 24.—An Act to amend an Act of the Tenth Year of his late Majesty, for regulating the Reduction of the National Debt. [9th July 1833.]

WHEREAS an act was passed in the tenth year of the reign of king George the fourth, intituled *An Act to amend the several Acts for regulating the Reduction of the National Debt*; and it was in and by the said act, amongst other things, enacted, that the one-fourth part of the sum which from time to time should appear by every such annual account respectively to be the actual surplus revenue of the year immediately preceding beyond the expenditure of the united kingdom should be charged and the same was in and by the said act made chargeable upon the consolidated fund of the united kingdom, and was directed to be issued and paid, in and for the quarter of the year then next ensuing the quarter of the year within which such annual account respectively was in and by the said act directed to be made up, either into the bank of England or into the bank of Ireland, to the account of the commissioners for the reduction of the national debt, as the said commissioners should direct, to be by them applied towards the redemption of the national debt of the united kingdom, in such proportions, and at such time and times in each and every quarter in every future year, as the said commissioners for the reduction of the national debt should require, according to the provisions and directions of any act or acts then in force respecting sums issued from the exchequer towards the reduction of the said national debt: And whereas in and by the said act it was also enacted that the said commissioners should from time to time apply all

No. III.
3 & 4 W. 4,
c. 24.

The commissioners for the reduction of the national debt empowered to apply the monies of the sinking fund to the purchase of the reversion of perpetual redeemable annuities;

and to grant in exchange for such, annuities for limited terms.

Annuities for term of years granted by virtue of this act to be chargeable upon the consolidated fund.

10 G. 4, c. 24.

2 & 3 W. 4,
c. 59.

perpetual annuities transferred to commissioners

such respective annual sums so placed to their account by virtue of the said act, either in the whole or in part, in the purchase of such redeemable public annuities, or annuities for any term or terms of years, or in the purchase of exchequer bills, or in the paying off exchequer bills, or in the advancing of such annual sums upon the credit of any exchequer bills therein-before mentioned as the said commissioners should from time to time judge most expedient: And whereas it is expedient to extend the powers and provisions of the said recited act, and to enable the said commissioners to purchase from time to time, with the said monies or with any part thereof which shall be so issued to them from time to time, under the provisions of the said act, within any quarter in this present year, or in any future year after the passing of this act, the reversion of any of the existing perpetual redeemable annuities, or of any of the perpetual redeemable annuities which may be hereafter created, and which may at any time be existing after the passing of this act, and constituting the public funded debt of the united kingdom; he it therefore enacted, &c., That from and after the passing of this act it shall and may be lawful for the said commissioners for the reduction of the national debt (and the said commissioners are hereby authorized and empowered), out of any of the said monies which shall be issued to them towards the reduction of the national debt, by virtue of the said recited act, or of any other act or acts now in force or which may hereafter be passed relating to the fund commonly called "The Sinking Fund," to apply such monies or any part thereof, if they shall think fit, at such times and times and under such regulations as the said commissioners shall think proper to adopt for that purpose, to the purchase of the reversion of any of the present existing perpetual redeemable annuities, or the reversion of any perpetual redeemable annuities which may at any time exist after the passing of this act, and constituting the public funded debt of the united kingdom, and to grant to any person or persons, bodies politic or corporate, in exchange for such perpetual annuities payable at the bank of England as shall or may be transferred to them under the provisions of this act, an annuity or annuities, to continue for such limited term of years certain, and upon such terms and conditions, as shall and may be agreed upon between the said commissioners and the parties contracting with the said commissioners.

II. That all annuities for term of years granted by the said commissioners by virtue of this act shall be charged and the same are hereby made chargeable upon the consolidated fund of the said united kingdom, and the said annuities shall be deemed and taken to be annuities for terms of years granted by the said commissioners within the meaning and intent of the act passed in the tenth year of the reign of king George the fourth, intituled *An Act to enable the Commissioners for the Reduction of the National Debt to grant Life Annuities, and Annuities for Terms of Years*, and all the clauses, conditions, provisions, directions, regulations, and periods of payment contained in the said last-recited act relating to immediate annuities granted or to be granted by the said commissioners for certain terms of years, and in a certain act made and passed in the second and third years of the reign of king William the fourth, intituled *An Act to transfer the Management of certain Annuities on Lives from the Receipt of His Majesty's Exchequer to the Management of the Commissioners for the Reduction of the National Debt, and to amend an Act for enabling the said Commissioners to grant Life Annuities and Annuities for Terms of Years*, shall be deemed and taken to apply to the annuities for terms of years which shall at any time be granted by the said commissioners under and by virtue of this act, as fully and effectually, to all intents and purposes (except as altered and varied by virtue of this act, as if the said clauses, conditions, provisions, directions, regulations, and periods of payment were severally repeated and re-enacted in this act.

III. That all the perpetual annuities which shall at any time after the passing of this act be transferred to the said commissioners under the

provisions of this act shall be forthwith cancelled in the books of the governor and company of the bank of England; and the said perpetual annuities shall cease to be charged upon or to be issued out of the said consolidated fund from and after the day upon which any such perpetual annuities shall be transferred to and placed in the names of the said commissioners in the books of the said bank.

No. III.
3 & 4 W. 4,
c. 24.

missioners for
the reduction
cancelled.

IV. That the annuities for terms of years granted by the said commissioners under the provisions of this act, or already granted or to be granted under the said last-recited act or of any future act or acts by which any annuities for terms of years certain shall be created, shall and may be transferred to and from the books of the governor and company of the bank of England to the books of the governor and company of the bank of Ireland, and *vice versa*, for the purpose of having corresponding sums in the like annuities for terms of years written into the books of the said respective banks, in like manner and under the same regulations as any other annuities for terms of years or capital stock are permitted to be so transferred under and by virtue of an act passed in the fifth year of the reign of king George the fourth, intituled *An Act to permit the mutual Transfer of Capital in certain Public Stocks or Funds transferrable at the banks of England and Ireland respectively*.

of the national debt to be
Annuities for
terms of years
created by this
act and by
10 G. 4, c. 24,
may be trans-
ferred to and
from England
and Ireland.

5 G. 4, c. 53.

(For the 4 & 5 W. 4, c. 22, relating to the apportionment of annuities, see post, Part IV., Class 19.)

PART III.

CLASS XII.

RESTITUTION OF STOLEN PROPERTY.

[The 21 H. 8, c. 11. (see *Evans' Statutes*, vol. ii. p. 342) is now repealed; and by the 7 & 8 G. 4, c. 29, s. 57, the court on conviction of the offenders, may award writs of restitution of stolen property, or order restitution thereof in a summary way. See the clause, *Evans' Statutes*, vol. vi. p. 49, x.

Long previous to the above statute, which allows the court to make a summary order, it was usual for the judges to direct immediate restitution to prosecutors of their goods without obliging them to issue writs of restitution, which seem to have fallen into disuse soon after the passing of the 21 H. 8, c. 11.

That statute only extended to a felonious and not to a fraudulent taking of goods. See 5 *Term Reports*, 175, where it was held under the 21 H. 8, c. 11, That if the owner of goods lost them by a fraud, and not by a felony, and afterwards convicted the offender, he was not entitled to restitution; or to retain them against a person (as a pawnbroker) who had fairly acquired a new right of property in the goods.

It has been recently held that the owner of stolen cattle who prosecutes the thief to conviction may recover their value in trover from a person who purchased them of the thief by a *bond fide* sale, but not in market overt, and sold them again in market overt before such conviction, notice of the felony having been given to him whilst the cattle were in his possession. *Peer v. Humphrey*, 1 *New Term Rep. K. B.* 28.]

PART III.

CLASS XIII.

EXECUTORS AND ADMINISTRATORS.

[No. I.] 1 W. IV. c. 40.—An Act for making better Provision for the Disposal of the undisposed of Residues of the Effects of Testators. [16th July 1830.]

WHEREAS testators by their wills frequently appoint executors, without making any express disposition of the residue of their personal estate: And whereas executors so appointed become by law entitled to the whole residue of such personal estate; and courts of equity have so far followed the law as to hold such executors to be entitled to retain such residue for their own use, unless it appears to have been their testator's intention to exclude them from the beneficial interest therein, in which case they are held to be trustees for the person or persons (if any) who would be entitled to such estate under the statute of distributions, if the testator has died intestate: And whereas it is desirable that the law should be extended in that respect; be it therefore enacted, &c., That when any person shall die, after the first day of September next after the passing of this act, having by his or her will, or any codicil or codicils thereto, appointed any person or persons to be his or her executor or executors, such executor or executors shall be deemed by courts of equity to be a trustee or trustees for the person or persons (if any) who would be entitled to the estate under the statute of distributions, in respect of any residue not expressly disposed of, unless it shall appear by the will, or any codicil thereto, the person or persons so appointed executor or executors was or were intended to take such residue beneficially.

After 1st Sept. 1830 executors deemed to be trustees for persons entitled to any residue under the statute of distributions, unless otherwise directed by will.

Not to affect rights of executors where there is not any person entitled to the residue.

Not to extend to Scotland.

II. Provided also, That nothing herein contained shall affect or prejudice any right to which any executor, if this act had not been passed, would have been entitled, in cases where there is not any person who would be entitled to the testator's estate under the statute of distributions, in respect of any residue not expressly disposed of.

III. Provided always, That nothing herein contained shall extend to that part of the united kingdom called Scotland.

[No. II.] 3 & 4 W. IV. c. 42.—An Act for the further amendment of the Law, and the better advancement of Justice. [14th August 1833.]

Executors may bring actions for injuries to the real estates of the deceased

II. And whereas there is no remedy provided by law for injuries to the real estate of any person deceased, committed in his lifetime, nor for certain things done by a person deceased in his lifetime to another in respect of his property, real or personal; for remedy thereof, be it enacted, That an action of trespass, or trespass on the case, as the case may be, may be maintained by the executors or administrators of any person deceased for any injury to the real estate of such person, committed in his lifetime, for which an action might have been maintained by such person, so as such injury shall have been committed within

six calendar months before the death of such deceased person, and provided such action shall be brought within one year after the death of such person; and the damages, when recovered, shall be part of the personal estate of such person; and further, that an action of trespass, or trespass on the case, as the case may be, may be maintained against the executors or administrators of any person deceased for any thing committed by him in his lifetime to another in respect of his property, real or personal, so as such injury shall have been committed within six calendar months before such person's death, and so as such action shall be brought within six calendar months after such executors or administrators shall have taken upon themselves the administration of the estate and effects of such person; and the damages to be recovered in such action shall be payable in like order of administration as the simple contract debts of such person.

No. II.
3 & 4 W. 4,
c. 42.

and actions
may be brought
against exe-
cutors for an
injury to pro-
perty, real or
personal, by
their testator.

XIV. That an action of debt on simple contract shall be maintainable in any court of common law against any executor or administrator. Simple contract debt.

XXXVII. That it shall be lawful for the executors or administrators of any lessor or landlord to distrain upon the lands demised for any term or at will for the arrearages of rent due to such lessor or landlord in his lifetime, in like manner as such lessor or landlord might have done in his lifetime. Executors of lessor may distrain for arrears in his lifetime.

[For the clause of the above act, making executors when plaintiffs liable to costs, see *post*, Part IV., Class XI. *Costs*.]

PART III.

CLASS XIV.

SALES.

[No. I.] 11 G. IV. c. 14.—An Act for removing the Sale of Hay and Straw from the Haymarket, and for establishing Markets for the Sale of Hay, Straw, and other Articles, in York Square, Clarence Gardens, and Cumberland Market, in the Parish of Saint Pancras, in the County of Middlesex.
[3rd May 1830.]

[No. II.] 2 & 3 W. IV. c. 20.—An Act to provide for the Sale, Manufacture, and Consumption of Tobacco grown in Ireland before the First Day of January 1832.
[24th March 1832.]

[No. III.] 3 & 4 W. IV. c. 68.—An Act to amend the Laws relating to the sale of Wine, Spirits, Beer and Cider by retail in Ireland.
[28th August 1833.]

[No. IV.] 4 & 5 W. IV. c. 20.—An Act to explain and amend an Act passed in the Thirty-third Year of the Reign of His late Majesty King George the Second, to regulate the Conveyance and Sale of Fish at First Hand.
[16th June 1834.]

WHEREAS by an act made and passed in the thirty-third year of the reign of his late Majesty king George the second, chapter twenty-seven, intituled *An Act to repeal so much of an Act passed in the twenty-ninth year of his then present Majesty's reign, concerning a free Market for Fish at Westminster, as requires Fishermen to enter their Fishing Vessels at the Office of the Searcher of the Customs at Gravesend; and to regulate the Sale of Fish at the First Hand in the Fish Markets in London and Westminster; and to prevent Salesmen of Fish buying Fish to sell again on their own Account; and to allow Bret and Turbot, Brill and Pearl, although under the respective Dimensions mentioned in a former Act, to be imported and sold: and to punish Persons who shall take or sell any Spawn, Brood, or Fry of Fish, unsizeable Fish, or Fish out of Season, or Smelts under the size of Five Inches, and for other Purposes*; certain provisions were made for regulating the sale of fish at first hand in the fish markets of London and Westminster; and it is by the said act, amongst other things, enacted, that no live salmon, salmon trout, turbot, large fresh cod, half fresh cod, haddock, scate, fresh ling, soles, or whiting shall at any time after the arrival thereof at the Nore, as therein men-

tioned, be unloaded or delivered out of any fishing ship, sloop, smack, or other fishing vessel or vessels, unless by retail, into any other vessel or boat after her arrival at the Nore, but into such vessel or vessels, boat or boats, as shall be employed to carry the fish directly to the market of Billingsgate or Westminster: And whereas doubts have arisen whether the words of the said act may not operate to prevent the bringing of fish to any market of London or Westminster which was not in existence or use as a public market at the time of the passing of the said act, although the object of the legislature was to secure a supply of fresh fish to the cities of London and Westminster, and to prevent the forestalling of the same: And whereas it is expedient to remove such doubts, and to facilitate the conveyance of fresh fish to the legal markets of the metropolis: Be it therefore declared and enacted, &c., That nothing in the said recited act contained shall extend or be construed to extend to prevent any person from unloading or discharging from any fishing ship, sloop, smack, or other fishing vessel or vessels any salmon, salmon trout, turbot, large fresh cod, half fresh cod, haddock, scate, fresh ling, soles, whittings, or other fish which may arrive at the Nore, or from putting the same into any other vessel or vessels, boat or boats, for the purpose of bringing the same for sale by first hand at any fish market or markets legally established within the cities of London and Westminster, but that every person shall be at liberty to unload or discharge such fish, and to put the same into other boats, for the purpose aforesaid, without being subject or liable to any penalty or punishment for so doing, any thing in the said recited act, or in any other act, to the contrary notwithstanding.

No. IV.
4 & 5 W. 4,
c. 20.

Nothing in recited act to prevent the several sorts of fish herein mentioned from being discharged from any fishing vessel for the purpose of being sent to any legal market in London or Westminster.

[No. V.] 4 & 5 W. IV. c. 21.—An Act for amending certain Provisions of an Act of the Thirty-sixth of George the Third, for regulating the buying and selling of Hay and Straw. [16th June 1834.]

WHEREAS by an act passed in the thirty-sixth year of the reign of his late Majesty king George the third, intituled *An Act to regulate the buying and selling of Hay and Straw, and for repealing so much of Two Acts, made in the Second Year of the reign of King William and Queen Mary, and in the Thirty-first Year of the reign of King George the Second, as relate to the buying and selling of Hay and Straw within the Limits therein mentioned*, it is amongst other things enacted, That the markets for sale of hay and straw within the cities and limits aforesaid shall end at three of the clock in the afternoon of every market day between Lady Day and Michaelmas, and at two of the clock in the afternoon of every market day between Michaelmas and Lady Day, and that notices thereof shall be given by the clerk or toll gatherer, or his deputy, in the several markets or places for the sale of hay and straw within the cities and limits aforesaid, by ringing, on the usual market days, a large hand bell round each respective market or place for the sale of hay or straw, one hour before the expiration of the times above mentioned, and again at the expiration of the hours above mentioned, on pain of forfeiting for every such offence a sum of money not exceeding ten shillings nor less than five shillings; and every person who shall sell any hay or straw in any market within the cities or limits aforesaid after the hours aforesaid shall forfeit for every bundle or truss of hay so sold the sum of sixpence, and for every bundle or truss of straw so sold the sum of three-pence; and it is also by the same act further enacted, That if any person having the care or direction of any waggon, wain, or cart used for the purpose of bringing hay or straw shall suffer the same to remain in any market or place for the sale of hay and straw within the cities and limits aforesaid, on the usual market days from Lady Day to

36 G. 3, c. 88.

No. V.
4 & 5 W. 4,
c. 21.

Recited pro-
visions of
36 G. 3, c. 88,
repealed as to
certain mar-
kets.

Michaelmas after five of the clock in the afternoon, and from Michaelmas to Lady Day after three of the clock in the afternoon, in any year, every person so offending shall forfeit for every such waggon, wain, or cart so left as aforesaid a sum of money not exceeding twenty shillings nor less than five shillings: And whereas the said recited provisions were well calculated to prevent obstructions and inconvenience to the public in markets held for the sale of hay and straw in open or public streets or thoroughfares, but the same are unnecessary, and may become vexatious and oppressive, in other markets, and ought therefore to be partially repealed; be it therefore enacted, &c., That from and after the passing of this act the several provisions of the said act of the thirty-sixth year of the reign of king George the third, chapter eighty-eight, which are herein-before recited, shall be and the same are hereby repealed so far as regards any market for the sale of hay, straw, and clover through which there does not exist by law any public right of way for carts and carriages; and that upon any complaint made or information laid for the recovery of penalties upon breach of any of the said recited provisions of the said act it shall be incumbent upon the party suing for such penalty to shew by evidence that there does exist such public right of way for carts and carriages through the market in which the offence shall be charged to have been committed.

[In the acts relating to the sale of beer and cider, see Part VI., Class 1, *Alehouses*.]

PART III.

CLASS XV.

SAVINGS BANKS.

[No. I.] 3 W. IV. c. 14.—An Act to enable Depositors in Savings Banks, and others, to purchase Government Annuities through the Medium of Savings Banks; and to amend an Act of the Ninth Year of his late Majesty to consolidate and amend the Laws relating to Savings Banks. [10th June 1833.]

WHEREAS an act was passed in the ninth year of the reign of his late Majesty king George the fourth, intituled *An Act to consolidate and amend the Laws relating to Savings Banks*, and it is expedient to alter and amend the same, and also to enable depositors in savings banks, and others, to lay out their funds in the purchase of immediate or deferred life annuities, as well as immediate or deferred annuities for a certain term of years, and that provisions should be made for carrying the said measures into effect as herein-after expressed; be it therefore enacted, &c., That from and after the twentieth day of May in the year of our Lord one thousand eight hundred and thirty-three, or as soon after as the commissioners for the reduction of the national debt shall think fit, of which due notice shall be given in the *London Gazette*, it shall and may be lawful for any two trustees or managers of a savings bank legally established to receive from any depositor in the said savings bank, or other person whom the said trustees or managers shall think entitled to become a depositor in a savings bank, any sum or sums of money for the purchase of immediate or deferred life annuities, or of immediate or deferred annuities for a certain limited term of years; such annuities to be contracted for by any two of the said trustees or managers on behalf of the commissioners for the reduction of the national debt, and to be charged and chargeable, and the said annuities are hereby made chargeable, upon the consolidated fund of the united kingdom, under the limitations, restrictions, and regulations hereafter expressed; and all sums of money from time to time paid to the said trustees or managers on account of the purchase of every such annuity shall be kept separate, distinct, and apart from the other funds of the institution, and be from time to time, when received, paid into the bank of England to the account of the commissioners for the reduction of the national debt; and the cashiers of the bank of England are hereby required to receive all such monies, and to place the same to the account of the said commissioners, to be entitled "The Fund for purchasing Life Annuities, or Annuities for Terms of Years, (as the case may be) on the Account of Savings Banks and Parochial Societies;" and the said commissioners shall in like manner keep distinct and separate accounts of all monies so placed to the said accounts, pursuant to the provisions of this act.

9 G. 4, c. 92.

Trustees of savings banks may receive money from depositors, &c. for purchase of annuities.

Annuities to be contracted for by two trustees on behalf of commissioners for reduction of national debt. Money paid to trustees on account of purchase of annuity to be kept distinct, and paid to account of commissioners.

II. Provided always, That no such annuity or annuities shall be contracted for by the said trustees or managers on behalf of the said commissioners upon the life of any nominee, under the provisions of this act, who on the day when the contract for such annuity or annuities shall be made shall be under the age of fifteen years; neither shall any annuities not to be granted on the life of any nominee under fifteen years of age,

No. I.
3 W. 4, c. 14.

nor to exceed
20l. per an-
num.

Commission-
ers, &c. may
decline to con-
tract for any
annuity.

Amount of fee
to be taken on
application for
annuity to be
limited to
2s. 6d. and
to be applied
in defraying the
necessary ex-
pences of trust-
ees.

Payments may
be made and
annuities re-
ceived at other
savings banks,
&c. than that
at which the
contract was
originally
entered into.

Treasury shall
direct use of
tables of the
value of an-
nuities as
approved by
them.

such annuity or annuities sold or granted to or possessed by any one individual exceed in the whole the sum of twenty pounds nor less than four pounds per annum : Provided also, That it shall be lawful for the said trustees or managers, or commissioners, or the comptroller general or assistant comptroller acting under the said commissioners, to decline or refuse to contract for, sell, or grant any annuity, under the provisions of this act, in any case where there shall be, in the opinion of the said trustees or managers, or of the said commissioners, or of the said comptroller general or assistant comptroller, sufficient grounds for refusing or declining so to do : Provided also, That if any one individual shall have or hold or be possessed at any one time of any annuity or annuities granted under the provisions of this act exceeding in the whole the sum of twenty pounds per annum, the said annuity or annuities shall immediately cease and be forfeited.

III. That it shall not be lawful for the said trustees or managers to take, demand, or receive from any person applying to enter into any contract for the purchase of such annuity as aforesaid, for admission fee or otherwise, a greater sum of money than two shillings and sixpence, nor from any person who may have entered into any such contract a greater sum annually than the sum of one shilling, which said several sums the said trustees are hereby authorized and empowered to charge and demand of and from such persons as aforesaid ; and that the money arising from such fees and payments shall be applied towards defraying the necessary expences incurred by the said trustees or managers in carrying into execution the provisions of this act with respect to the contracting for, granting, and paying such annuities.

IV. That it shall and may be lawful for any person, having contracted for the purchase of any such annuity as aforesaid, with the consent of the commissioners for the reduction of the national debt, or the comptroller general or assistant comptroller acting under them, to make the annual or other payments, or to receive the said annuity so contracted for as aforesaid, through the hands of the trustees or managers of any other savings bank or society (herein-after mentioned) than that at which such person originally entered into such contract as aforesaid.

V. That for the better carrying this act into execution it shall and may be lawful for the commissioners of his Majesty's treasury, or any three or more of them, from time to time, as they shall think fit, to direct the commissioners for the reduction of the national debt to use and adopt such tables as shall, from time to time, be authorized and approved of by the said commissioners of the treasury, or any three or more of them, for ascertaining the values of annuities, whether immediate or deferred, depending on the continuance of single lives, and also such tables of the values of annuities for a certain limited term of years, immediate or deferred, as may be granted according to the provisions of this act ; and such respective tables shall be valid and effectual for the purposes of this act ; and all annuities for lives or years, of whatsoever kind, to be purchased under the provisions of this act, shall be purchased according to the values stated in such tables respectively so long as the same shall remain in force ; and it shall be lawful for the said commissioners of the treasury to alter, revoke, and recal all or any of the said tables from time to time, and to direct the use and adoption of such other tables in lieu thereof as shall be approved of by the said commissioners of the treasury, and also to discontinue, by any warrant under their hands, addressed to the said commissioners for the reduction of the national debt (of which the said last-mentioned commissioners shall give notice in the *London Gazette*), the granting of any annuities for lives or years under the provisions of this act, if they shall think it fit and expedient so to do : Provided always, That the said commissioners for the reduction of the national debt shall, previous to the adoption and using of any such tables respectively, give notice, from time to time, in the *London Gazette*, in such form and manner as

to the said commissioners for the reduction of the national debt shall seem fit and proper, that such tables have been authorized and approved by the said commissioners of the treasury

VI. That in every case when any sum of money shall be paid as the consideration for the purchase of any annuity for lives or years, of whatsoever kind, under the provisions of this act, the person or persons purchasing any such annuity for lives or years, upon the payment of such sum of money to the said trustees or managers, and by the said trustees paid into the bank of England to the account of the said commissioners, entitled "The Fund for purchasing Life Annuities or Annuities for Terms of Years on account of Savings Banks and Parochial Societies," shall for every sum of money paid be entitled to receive, during the continuance of the single life of the nominee, whether such life annuity shall be immediate or deferred, or during the term of years, immediate or deferred, for which any annuity shall be granted under this act, an annuity for a life or for terms of years, as the case may be, of such annual amount as shall be specified in any such table or tables respectively as the commissioners of his Majesty's treasury, or any three or more of them, shall from time to time authorize and approve, in manner herein-before directed, to be calculated and ascertained according to the age of the nominee, or the continuance of the term of years respectively, as the case may be.

VII. That in every case where the calculation of the amount of any annuity according to the provisions of this act shall produce a fraction less than sixpence, the fractional part of the said annuity less than sixpence shall be taken from the amount thereof, and shall not be payable by the officer of the said commissioners for the reduction of the national debt.

VIII. That all life annuities of whatsoever kind, which shall be purchased and granted under the provisions of this act, (whether such life annuities shall commence immediately or not,) shall, in their due course as the same shall fall due and become payable, be carried to a new and separate account in the books of the said commissioners for the reduction of the national debt; and all annuities for terms of years which shall be purchased and granted under this act shall in like manner be carried to a new and separate account in the books of the said commissioners.

IX. That whenever proof of the age of any nominee shall have been produced under the provisions of this act, as herein-after directed, any person or persons who shall be desirous of purchasing any annuity or annuities, whether such annuity shall depend upon the life of such person or not (the total amount of such annuities not exceeding the sum herein-before mentioned), on the life of such nominee (whether such life annuities shall have been originally contracted for to commence immediately or not), shall be at liberty so to do; and the original proof of the age of such nominee, produced at the time of the purchase of the first annuity upon the life of such nominee, shall be deemed sufficient for that purpose, without the production of any further proof of age.

X. That for the purpose of ascertaining from time to time the amount of annuities for lives or for terms of years, payable under the authority of this act, the said comptroller general or assistant comptroller acting under the said commissioners shall, within fourteen days preceding the fifth day of July, the tenth day of October, the fifth day of January, and the fifth day of April in each and every year, (commencing on the tenth day of October one thousand eight hundred and thirty-three,) certify to the commissioners of his Majesty's treasury the amount of annuities for lives and of annuities for terms of years payable under this act, the half-yearly payments of which shall from time to time be chargeable upon the said consolidated fund on each of such days respectively; and the said commissioners of the treasury, or any three or more of them, shall thereupon order and direct, by warrant under their hands, the sums specified from time to time in every such certifi-

No. I.
3 W. 4, c. 14.

Purchasers of annuities for lives or for years shall be entitled to such amount of annuity as shall be specified in the tables.

Preventing fractions.

Life annuities granted under this act shall be carried to a separate account, as also annuities for years.

Life annuitants may make further purchases on lives of original nominees without fresh certificates.

Amount of annuities from time to time payable shall be certified to the treasury, who shall issue their warrant to the bank for payment thereof out of the consolidated fund.

No. I.
3 W. 4, c. 14.

nor to exceed
20l. per an-
num.

Commission-
ers, &c. may
decline to con-
tract for any
annuity.

Amount of fee
to be taken on
application for
annuity to be
limited to
2s. 6d. and
to be applied
in defraying the
necessary ex-
pences of trust-
tees.

Payments may
be made and
annuities re-
ceived at other
savings banks,
&c. than that
at which the
contract was
originally
entered into.

Treasury shall
direct use of
tables of the
value of an-
nuities as
approved by
them.

such annuity or annuities sold or granted to or possessed by any one individual exceed in the whole the sum of twenty pounds nor less than four pounds per annum: Provided also, That it shall be lawful for the said trustees or managers, or commissioners, or the comptroller general or assistant comptroller acting under the said commissioners, to decline or refuse to contract for, sell, or grant any annuity, under the provisions of this act, in any case where there shall be, in the opinion of the said trustees or managers, or of the said commissioners, or of the said comptroller general or assistant comptroller, sufficient grounds for refusing or declining so to do: Provided also, That if any one individual shall have or hold or be possessed at any one time of any annuity or annuities granted under the provisions of this act exceeding in the whole the sum of twenty pounds per annum, the said annuity or annuities shall immediately cease and be forfeited.

III. That it shall not be lawful for the said trustees or managers to take, demand, or receive from any person applying to enter into any contract for the purchase of such annuity as aforesaid, for admission fee or otherwise, a greater sum of money than two shillings and sixpence, nor from any person who may have entered into any such contract a greater sum annually than the sum of one shilling, which said several sums the said trustees are hereby authorized and empowered to charge and demand of and from such persons as aforesaid; and that the money arising from such fees and payments shall be applied towards defraying the necessary expences incurred by the said trustees or managers in carrying into execution the provisions of this act with respect to the contracting for, granting, and paying such annuities.

IV. That it shall and may be lawful for any person, having contracted for the purchase of any such annuity as aforesaid, with the consent of the commissioners for the reduction of the national debt, or the comptroller general or assistant comptroller acting under them, to make the annual or other payments, or to receive the said annuity so contracted for as aforesaid, through the hands of the trustees or managers of any other savings bank or society (herein-after mentioned) than that at which such person originally entered into such contract as aforesaid.

V. That for the better carrying this act into execution it shall and may be lawful for the commissioners of his Majesty's treasury, or any three or more of them, from time to time, as they shall think fit, to direct the commissioners for the reduction of the national debt to use and adopt such tables as shall, from time to time, be authorized and approved of by the said commissioners of the treasury, or any three or more of them, for ascertaining the values of annuities, whether immediate or deferred, depending on the continuance of single lives, and also such tables of the values of annuities for a certain limited term of years, immediate or deferred, as may be granted according to the provisions of this act; and such respective tables shall be valid and effectual for the purposes of this act; and all annuities for lives or years, of whatsoever kind, to be purchased under the provisions of this act, shall be purchased according to the values stated in such tables respectively so long as the same shall remain in force; and it shall be lawful for the said commissioners of the treasury to alter, revoke, and recal all or any of the said tables from time to time, and to direct the use and adoption of such other tables in lieu thereof as shall be approved of by the said commissioners of the treasury, and also to discontinue, by any warrant under their hands, addressed to the said commissioners for the reduction of the national debt (of which the said last-mentioned commissioners shall give notice in the *London Gazette*), the granting of any annuities for lives or years under the provisions of this act, if they shall think it fit and expedient so to do: Provided always, That the said commissioners for the reduction of the national debt shall, previous to the adoption and using of any such tables respectively, give notice, from time to time, in the *London Gazette*, in such form and manner as

to the said commissioners for the reduction of the national debt shall seem fit and proper, that such tables have been authorized and approved by the said commissioners of the treasury

No. I.
3 W. 4, c. 14.

VI. That in every case when any sum of money shall be paid as the consideration for the purchase of any annuity for lives or years, of whatsoever kind, under the provisions of this act, the person or persons purchasing any such annuity for lives or years, upon the payment of such sum of money to the said trustees or managers, and by the said trustees paid into the bank of England to the account of the said commissioners, entitled "The Fund for purchasing Life Annuities or Annuities for Terms of Years on account of Savings Banks and Parochial Societies," shall for every sum of money paid be entitled to receive, during the continuance of the single life of the nominee, whether such life annuity shall be immediate or deferred, or during the term of years, immediate or deferred, for which any annuity shall be granted under this act, an annuity for a life or for terms of years, as the case may be, of such annual amount as shall be specified in any such table or tables respectively as the commissioners of his Majesty's treasury, or any three or more of them, shall from time to time authorize and approve, in manner herein-before directed, to be calculated and ascertained according to the age of the nominee, or the continuance of the term of years respectively, as the case may be.

Purchasers of annuities for lives or for years shall be entitled to such amount of annuity as shall be specified in the tables.

VII. That in every case where the calculation of the amount of any annuity according to the provisions of this act shall produce a fraction less than sixpence, the fractional part of the said annuity less than sixpence shall be taken from the amount thereof, and shall not be payable by the officer of the said commissioners for the reduction of the national debt.

Preventing fractions.

VIII. That all life annuities of whatsoever kind, which shall be purchased and granted under the provisions of this act, (whether such life annuities shall commence immediately or not,) shall, in their due course as the same shall fall due and become payable, be carried to a new and separate account in the books of the said commissioners for the reduction of the national debt; and all annuities for terms of years which shall be purchased and granted under this act shall in like manner be carried to a new and separate account in the books of the said commissioners.

Life annuities granted under this act shall be carried to a separate account, as also annuities for years.

IX. That whenever proof of the age of any nominee shall have been produced under the provisions of this act, as herein-after directed, any person or persons who shall be desirous of purchasing any annuity or annuities, whether such annuity shall depend upon the life of such person or not (the total amount of such annuities not exceeding the sum herein-before mentioned), on the life of such nominee (whether such life annuities shall have been originally contracted for to commence immediately or not), shall be at liberty so to do; and the original proof of the age of such nominee, produced at the time of the purchase of the first annuity upon the life of such nominee, shall be deemed sufficient for that purpose, without the production of any further proof of age.

Life annuitants may make further purchases on lives of original nominees without fresh certificates.

X. That for the purpose of ascertaining from time to time the amount of annuities for lives or for terms of years, payable under the authority of this act, the said comptroller general or assistant comptroller acting under the said commissioners shall, within fourteen days preceding the fifth day of July, the tenth day of October, the fifth day of January, and the fifth day of April in each and every year, (commencing on the tenth day of October one thousand eight hundred and thirty-three,) certify to the commissioners of his Majesty's treasury the amount of annuities for lives and of annuities for terms of years payable under this act, the half-yearly payments of which shall from time to time be chargeable upon the said consolidated fund on each of such days respectively; and the said commissioners of the treasury, or any three or more of them, shall thereupon order and direct, by warrant under their hands, the sums specified from time to time in every such certifi-

Amount of annuities from time to time payable shall be certified to the treasury, who shall issue their warrant to the bank for payment thereof out of the consolidated fund.

No. 1.
3 W. 4, c. 14.

Time of pay-
ment of an-
nuities granted
under this act.

Quarterly pay-
ment on death
of nominees of
life annuities.

Proviso as to
deferred an-
nuities.

Bargains for
annuities not to
be made for
14 days after
the quarterly
day of payment.

Contracts for
annuities to be
sanctioned by
commissioners
for reduction of
national debt
before they are
entered into.

cate to be issued and paid out of the said consolidated fund from time to time to the governor and company of the bank of England, to be by them placed to the account of the said commissioners for the reduction of the national debt, for the purposes of paying all such annuities respectively.

XI. That all annuities for lives or years of whatsoever kind, which shall be purchased under the provisions of this act, shall be payable by two equal half-yearly payments, to be respectively made on the fifth day of January and on the fifth day of July, or on the fifth day of April and the tenth day of October, in each and every year, according to the respective periods, as herein-after mentioned, within which any money shall be paid for the purchase of any such annuities for life or years of whatsoever kind respectively; and the first half-yearly payment of every such annuity so purchased shall be made at the times following; (that is to say,) on the fifth day of January in respect of all such purchases completed by the actual payment of money into the bank of England to the account of the said commissioners herein-after mentioned at any time during the quarter ending on the tenth day of October preceding such fifth day of January; on the fifth day of April, in respect of all such purchases so completed at any time during the quarter ending on the fifth day of January preceding the fifth day of April; on the fifth day of July in respect of all such purchases so completed at any time during the quarter ending the fifth day of April preceding such fifth day of July; and on the tenth day of October in respect of all such purchases so completed at any time during the quarter ending on the fifth day of July preceding such tenth day of October; and all future half-yearly payments of every such annuity shall be made with reference to the time of such half yearly payment: Provided always, that upon the death of any nominee in respect of any life annuity, a sum equal to one fourth part of the annuity depending upon the life of such nominee (over and above all half-yearly arrears thereof respectively,) shall be payable to the person or persons entitled to such annuity, or his, her, or their executors or administrators, (as the case may be), on the half-yearly days of payment next succeeding the production of proof to the said trustees, and by them to the said commissioners, certifying the death of such nominee; provided that such proof shall be produced to the said commissioners within thirty days next preceding the fifth day of January, fifth day of April, fifth day of July, and tenth day of October respectively in every year, and that such last-mentioned payment shall be claimed within two years after the death of such nominee, but not otherwise: Provided also, that the fourth part of any expired life annuity payable under the provisions of this act shall not be payable or be paid upon or in respect of any deferred life annuity, unless one half-yearly payment of such deferred life annuity shall have been actually paid or become due at the time of the decease of such nominee.

XII. That for the space of fourteen days next after any of the said quarterly days for payment of the said annuities respectively, no bargain or contract shall be made by the said trustees or managers on behalf of the said commissioners for the reduction of the national debt, for the grant or purchase of any annuity under this act; any thing herein-before contained to the contrary in anywise notwithstanding.

XIII. That all contracts for life annuities or annuities for a limited term of years, whether immediate or deferred, which shall be entered into by the trustees or managers of any savings bank, or by the trustees or managers of any society in any parish or place authorized by this act to contract for the same, shall in each and every case be deemed and taken to be contracts made by the said trustees or managers on behalf of the commissioners for the reduction of the national debt: Provided always, that no life annuity shall be permitted to be contracted for, nor shall any payment of any life annuity be made, under the provisions of this act, until proof of the age of the person proposed to be nominated,

and until proof of the existence and identity of the respective nominees upon whose life the payment of any annuity shall be demanded shall have been previously submitted to and approved of by the said commissioners, or by the comptroller general or assistant comptroller acting under the said commissioners; and the said annuities for lives and for terms of years shall be placed under the same regulations as are contained in the acts now in force for enabling the said commissioners to grant life annuities and annuities for terms of years, so far as the same can be made applicable thereto, save and except that no charge by way of commission shall be made by the said commissioners at any time on any sum of money which shall be paid by any person for the purchase of any annuities under the provisions of this act, and also according to such instructions and regulations as the said commissioners, or the said comptroller general or assistant comptroller, shall from time to time issue and direct for carrying into effect the provisions of this act; and all the provisions, penalties, and forfeitures in the said last-mentioned acts contained shall apply and be in force with regard to any and all annuities granted under this act in the same manner as though the same were expressly enacted herein, except so far as the same shall be altered or varied by this act.

No. I.
3 W: 4, c. 14.

XIV. That upon the production to the proper officer of the said commissioners for the reduction of the national debt of proof of the existence and identity of the respective nominees, as herein-before enacted, and upon the same being approved by such officer, it shall be lawful for any two trustees of the savings bank wherein such respective nominees shall be registered, and also for any two trustees of any society duly established in any parish under this act, to draw upon the said commissioners for the half-yearly payment of the several annuities then due upon the lives of such nominees respectively; and such officer shall and he is hereby required to pay to the said trustees as aforesaid, or their respective agents, now appointed or hereafter to be appointed, within five days after the production of such draft, the several half-yearly payments then due.

On production of proof of existence, &c. certificate shall be granted for payment of annuity for life.

XV. That in all cases of annuities for terms of years it shall be lawful for the said trustees, as herein-before mentioned, to draw upon the said commissioners for the half-yearly payment of the several last-mentioned annuities then due; and the said officer shall and he is hereby required to pay to the said trustees or their respective agents, now appointed or hereafter duly appointed, within five days after the draft is presented, the several half-yearly payments then due.

Annuities for terms of years to be paid without proof.

XVI. That the right, title, interest, and benefit in and to any annuity, of whatsoever kind, whether such annuity shall be immediate or deferred, which may be purchased under the provisions of this act, shall not be transferrable or assignable by the purchaser thereof so as to enable the assignee to receive the same during the lifetime of the said purchaser, except in case of his or her insolvency or bankruptcy when the same shall become the property of his or her assignee or assignees for the benefit of his or her creditors, and the same shall, in such case, after due notice of such insolvency or bankruptcy, be paid to such assignee or assignees aforesaid; and in case of any such bankruptcy or insolvency, the said commissioners for the reduction of the national debt shall re-purchase the said annuity according to the value thereof, the same being computed upon the same tables upon which the said annuity was originally purchased; and the receipt of the assignee or assignees shall be a sufficient discharge to the said commissioners.

Annuities granted under this act not transferrable, except in case of bankruptcy or insolvency.

XVII. That life annuities and annuities for terms of years, purchased under the provisions of this act, shall not be subject or liable to any taxes, charges, or impositions whatever; and that all such annuities shall be deemed personal estate, and in all cases where the same shall not depend upon the life of the person entitled thereto shall go to the executors or administrators of such person as personal estate, and shall not be descendible to the heirs.

As to the liability of annuities to taxes. Annuities shall be personal estate.

No. I.

3 W. 4, c. 14.

If annual payments are not kept up, or if party die before annuity commences, all payments to be returned.

Registers, receipts, &c. exempt from stamp duty.

Appointment of clerks and officers.

For defraying expences attending the execution of this act.

9 G. 4, c. 92.

10 G. 4, c. 56.

Quorum of commissioners.

Account to be annually laid before parliament of an-

XVIII. Provided always, That whenever it shall happen that any person, having made any one or more annual payment or payments, in cases where the consideration for any deferred life annuity or annuity for terms of years shall be by annual payments for or in the purchase of any deferred annuity under this act, or their respective executors or administrators, shall make default in paying or continuing to make the residue of such annual payments until the whole consideration for any such life annuity or annuity for terms of years shall be fully paid according to the agreement for the same, or in case the person so contracting for such life annuity or annuity for terms of years should die previous to the said annuity becoming payable, then and in every such case the amount of all annual payments which shall have been actually made previous to such default shall be returned, exclusive of interest, to the said person so making default as aforesaid; or in case of the death of the party having entered into such contract as herein-before mentioned, the annual or other payment or payments which shall have been actually made previous to his death shall be paid, exclusive of interest, to his executors or administrators; and that the money so returned shall be charged, paid, and defrayed out of the monies standing in the names of the commissioners for the reduction of the national debt at the bank of England, under the provisions of this act.

XIX. That no stamp duty whatever shall be paid or payable upon or in respect of any copy of any register of the birth or baptism or marriage or burial of any nominee or other person, or upon or in respect of any certificate or declaration to be made or taken in pursuance of this act, or any certificate or other instrument whatsoever respecting the payment of money for the purchase of any annuity under this act, or any power of attorney authorizing the receipt; or any receipt for the payment of any such annuity or any part thereof, but that the same shall be respectively free from all stamp duties whatsoever, any thing in any act or acts to the contrary notwithstanding.

XX. That it shall be lawful for the commissioners for the reduction of the national debt, and they are hereby authorized and empowered, from time to time to appoint such officers, clerks, and other persons as may be necessary for carrying this act into execution, and as may be approved of by the commissioners of his Majesty's treasury.

XXI. That it shall be lawful for the lord high treasurer, or the commissioners of his Majesty's treasury, or any three or more of them for the time being, to order and direct to be issued and paid, out of the fund upon which the establishment of the commissioners for the reduction of the national debt is chargeable, any sum or sums of money for the payment of salaries to officers and clerks acting in the execution of this act, in such manner as the said lord high treasurer, or commissioners of the treasury, or any three or more of them, shall from time to time think fit and reasonable: Provided always, that any incidental expences incurred by the said commissioners for the reduction of the national debt in carrying into execution this act, or the said act made and passed in the ninth year of the reign of king George the fourth, intituled *An Act to consolidate and amend the Laws relating to Savings Banks*, or the act made and passed in the tenth year of the reign of king George the fourth, intituled *An Act to consolidate and amend the Laws relating to Friendly Societies*, shall and may be defrayed by the commissioners for the reduction of the national debt out of any monies, stocks, or funds standing in the names of the said commissioners at the bank of England.

XXII. That it shall be lawful for any three or more of the commissioners for the reduction of the national debt for the time being to execute and do all matters and things which the said commissioners are required or empowered to do for the execution of this act.

XXIII. That there shall be prepared and annually laid before both houses of parliament, on or before the twenty-fifth day of March in every year if Parliament shall be then sitting, and if parliament shall not be then sitting, then within fourteen days after the commencement

of the then next session of parliament, an account, made up by the commissioners for the reduction of the national debt to the fifth day of January preceding, of the gross amount of all sums of money paid to the said commissioners, and the gross amount of annuities for lives and for terms of years which shall have been granted for the same, under the provisions of this act, within the year ending on the fifth day of January as aforesaid.

No. I.

3 W. 4, c. 24.

Monies granted, and of money paid for annuities.

XXIV. That the said commissioners for the reduction of the national debt shall cause all monies placed to their said accounts in pursuance of the provisions of this act to be invested from time to time, under such regulations as the said commissioners shall direct, in the purchase of any bank annuities, or annuities for terms of years, or exchequer bills, or in either of them, and to be carried to the accounts herein-before provided; which said bank annuities and exchequer bills (as the case may be) shall be forthwith cancelled, and all interest or dividends on such bank annuities shall cease to be charged upon or to be issued out of the consolidated fund from and after the day upon which any such bank annuities shall have been purchased by the said commissioners: Provided nevertheless, that it shall and may be lawful for the said commissioners for the reduction of the national debt to retain and reserve from time to time so much of such monies as they shall deem expedient for the purpose of enabling the said commissioners to return and pay back any sum or sums of money, as herein-before directed, to such person or persons who shall have contracted for the purchase of any annuity under the provisions of this act, by annual or other payments, but who, from death or otherwise, may not be enabled to make good and keep up the same, or to his, her, or their executors or administrators, as well as to the executors or administrators of such person or persons who may die before the annuity which he, she, or they may have contracted for becomes payable.

Monies paid to commissioners on account of this act to be invested in bank annuities for term of years, or exchequer bills, which shall be cancelled.

Commissioners may reserve a part of such sums to repay money claimed in case of death, &c. of party purchasing annuity.

XXV. That it shall be lawful for the said commissioners for the reduction of the national debt from time to time, and as they shall think fit, to sell and dispose of the bank annuities and exchequer bills, or any part thereof, which may be now standing or may hereafter stand in their names in the books of the bank of England, in pursuance of the said act made and passed in the ninth year of the reign of King George the fourth, intituled *An Act to consolidate and amend the Laws relating to Savings Banks*, and of the said act made and passed in the tenth year of the reign of his said late Majesty George the fourth, intituled *An Act to consolidate and amend the Laws relating to Friendly Societies*, and with the proceeds thereof to purchase in lieu thereof any other description of bank annuities, or annuities for terms of years, or exchequer bills.

Commissioners may sell and dispose of bank annuities, &c. now standing in their names, pursuant to 9 G. 4, c. 92, and 10 G. 4, c. 56, and purchase other bank annuities, &c. in lieu thereof.

XXVI. That it shall and may be lawful for the trustees and managers of any savings bank, desirous of carrying the provisions of this act into execution, to frame rules and regulations for that purpose; and that all the provisions of the said act, made and passed in the ninth year of the reign of his said late Majesty king George the fourth, as relate to the framing, enrolling, and altering rules of savings banks, as well as to disputes between the said trustees or managers and depositors therein, shall be applicable to the rules and regulations to be made under the provisions of this act, and to the parties purchasing such annuities, as herein mentioned; and that for the purposes of this act every person purchasing an annuity through the medium of a savings bank shall be considered as a depositor in a savings bank.

Trustees may make rules for carrying the provisions of this act into execution.

XXVII. That in any parish or place in the united kingdom where no savings bank is legally established under the provisions of the said act herein-before mentioned, it shall and may be lawful to and for any persons in such parish or place to establish a society for carrying the provisions of this act into execution; provided that the rector or vicar or minister of the parish, or elder for the time being, or a resident justice of the peace, shall be one of the trustees of such society; and provided

Where no savings bank is legally established, other trustees may establish a society for the purpose of

PART IV.

Of Courts and Civil Proceedings.

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- CLASS I.** General Courts of Common Law, Court Houses, Judges.
2. Attornies and other Officers.
 3. Original Writ, Process, Arrest, Imprisonment, Bail, Appearance.
 4. Outlawry.
 5. Privilege of Parliament.
 6. Pleadings, &c.
 7. Set-off.
 8. Limitations.
 9. Juries and Trials.
 10. Evidence.
 11. Costs.
 12. Judgment, Execution, Statutes, Recognizances.
 13. Error and False Judgment.
 14. Miscellaneous Statutes respecting Civil Actions and Proceedings.
 15. Wales, Counties Palatine, Liberties.
 16. Inferior Courts.
 17. Statutes relating to Personal Liberty.
 18. Real Actions.
 19. Distress, Replevin, and Matter relating to Landlord and Tenant.
 20. Actions against Justices of Peace, and other Officers.
 21. Penal Actions and Informations.
 22. Hue and Cry, and Actions against the Hundred.
 23. King's Debts.
 24. Ecclesiastical and Maritime Courts.
 25. Courts of Equity.
 26. Coroners.
 27. Warden.
 28. Bankrupts.

CLASS I.

GENERAL COURTS OF COMMON LAW, COURT HOUSES, JUDGES.

[No. I.] 1 W. IV. c. 58.—An Act for regulating the Receipt and future Appropriation of Fees and Emoluments receivable by Officers of the Superior Courts of Common Law (1).

[23rd July 1830.]

WHEREAS it may be necessary for the better administration of justice that amendments and alterations should be made in the process, practice, pleadings, and other proceedings of his Majesty's superior

(1) See *post*, the 1 & 2 W. 4, c. 35, explaining and amending this act.

courts of common law in England and Wales, or that the offices belonging to the said courts should be subjected to new regulations, whereby the amount of fees and emoluments which some of the officers are or may be entitled to demand and receive in respect of the duties of their offices may be diminished or wholly taken away, and the amount of fees and emoluments which others are or may be entitled so to demand and receive increased: And whereas it is fit that compensation should be made for any such loss, and that the public should have the benefit of any such increase of fees and emoluments: Be it therefore enacted, &c., That, except as herein-after mentioned, every person who on the twenty-fourth day of May one thousand eight hundred and thirty shall have held any office in or belonging to any of the said courts, in fee, or for any term either of life or years, or who shall then have been appointed to any other office or employment in or belonging to any of the said courts, by virtue of any right of appointment heretofore exercised by any of the judges of his Majesty's courts of record at Westminster, and every cursitor of the court of chancery, and every person holding any office connected with the passing of fines and recoveries, who shall have been appointed on or before the said twenty-fourth day of May, shall forthwith, after the passing of this act, make or cause to be made out, and render to the commissioners to be appointed by virtue of this act as herein-after mentioned, an account in writing, in such form and with such particulars of receipt and otherwise as the said commissioners shall require, of all such lawful fees and emoluments as aforesaid which shall have become due in respect of every such office or employment as aforesaid, and of all disbursements and allowances made thereout, and charges affecting the same, in each of the ten years next preceding the said twenty-fourth day of May one thousand eight hundred and thirty.

II. Provided always, That every officer who claimed and was entitled to compensation in respect of any fees or emoluments under the provisions of an act passed in the sixth year of the reign of his late Majesty king George the fourth, intituled *An Act for preventing frivolous Writs of Error*, shall forthwith after the passing of this act make out and render to the commissioners to be appointed by virtue of this act such account in writing as herein-before directed, so far as regards such fees and emoluments, in respect of the ten years mentioned in the said recited act, in lieu of the ten years above mentioned; and that so much of the said recited act as relates to the inquiring and ascertaining and certifying and paying the amount of the diminution or excess in the same act mentioned shall, from and after the last day of Trinity term one thousand eight hundred and thirty, cease and be of no effect, except so far as regards the compensation due to such persons under the said recited act up to the said last day of Trinity term one thousand eight hundred and thirty.

III. That in case any person holding any such office or employment as aforesaid shall not be able to make or cause to be made out any such account as aforesaid for every one of the years in respect of which the same is to be so rendered, he shall specify in the account which he shall render the reason why he is not able to render an account for any such year or years as may be omitted.

IV. That the said commissioners shall be authorized to inquire into and examine as well the legality as the amount of the fees and emoluments contained in any such account as aforesaid, and of all disbursements and allowances made in respect thereof, and of all charges affecting the same; and to require proof to be made, upon oath, either personally or in writing, of any matter into which such commissioners may think it necessary to inquire; which oath may be administered either by such commissioners, or any three of them, or by a judge or commissioner of any of the said courts.

V. That the said commissioners shall ascertain the gross and net annual value, according to a fair average of the said ten years as afore-

No. I.

1 W. 4, c. 58.

Persons holding offices in the superior courts shall render to the commissioners under this act an account of their receipts for the last ten years.

Officers entitled to and who claimed compensation under 6 G. 4, c. 96, to render an account for ten years before the passing of that act.

If an account cannot be rendered, the reason to be stated.

Commissioners may examine the legality, &c. of the fees upon oath.

Commissioners shall ascertain

No. I.

1 W. 4, c. 58.

the value of all such offices according to an average of ten years;

and certify the same to the treasury.

The fees to be paid until altered.

Officers to render an account of their fees in future to the treasury.

Manner of proceeding if account is unsatisfactory.

If the fees received shall exceed the certified value of the office, the

said, of the lawful fees and emoluments of all such offices and employments as aforesaid; and in every case wherein it shall happen that the fees and emoluments relating to any particular year or years shall have been omitted by any officer in the account rendered to the said commissioners, and they shall be satisfied with the reason given for such omission, the said commissioners shall estimate the gross and net annual value of the office or employment of such officer according to the best of their judgment; and in order to assist them in forming a judgment therein, they shall have regard to the amount of fees and emoluments which in the year or years omitted have been received by other officers, the fees and emoluments of whose offices or employments may, in the opinion of the said commissioners, afford a fair ground of comparison.

VI. That when the said commissioners shall have ascertained to their satisfaction the gross and net annual value of the fees and emoluments of such offices and employments, or any of them, computed as aforesaid, together with the particulars of the disbursements, allowances, and charges constituting the difference between such gross and net annual value, they shall from time to time certify the same under their hands to the lord high treasurer or commissioners of his Majesty's treasury for the time being, who shall lay copies of every certificate of the said commissioners before both houses of parliament.

VII. That, until otherwise directed by lawful authority, all fees and emoluments that now are or may be legally received in respect of any such offices or employments shall continue to be received, and shall be accounted for in the manner herein-after mentioned.

VIII. That every person who on the twenty-fourth day of May one thousand eight hundred and thirty shall have held any such office or employment as aforesaid, and the heirs, executors, or administrators of every such person having an interest in such office, in fee, or for any term of life or years, shall, during his or their continuance or interest in such office or employment, render to the lord high treasurer or commissioners of his Majesty's treasury for the time being, upon oath, to be sworn before a judge of one of the said courts, or a commissioner duly authorized to take affidavits therein, a true account in writing of the gross and net amount of all such fees and emoluments as aforesaid, which shall have become due on account of such office or employment, specifying the particulars of the disbursements, allowances, and charges constituting the difference between such gross and net amounts, at and for such time or times, in such form, and with such further particulars of receipt or otherwise, as the commissioners to be appointed (by virtue of this act) shall fix.

IX. That in case the said lord high treasurer or commissioners of his Majesty's treasury for the time being, or any three or more of them, shall be dissatisfied with any account to be rendered to them as aforesaid, it shall and may be lawful for him or them to refer the same to any one or more of the chief justices, chief baron, or judges of any of his Majesty's superior courts at Westminster, or to any one or more of the masters of the high court of chancery, who shall thereupon, by such ways and means and by the examination of such persons as he or they shall think fit, and on oath, if he or they shall think an oath necessary to be administered, in manner aforesaid, inquire into and investigate the said accounts, or any item therein, and all or any of the disbursements, allowances, or charges therein contained, and make such allowances and disallowances therein as he or they shall think just and reasonable; and shall finally settle and certify in writing the net amount of the fees and emoluments to which such account relates.

X. That in case the net amount of such fees and emoluments which shall have become due to any person, who, on the said twenty-fourth day of May one thousand eight hundred and thirty, shall have held any such office or employment as aforesaid, shall exceed the net annual value thereof which shall have been certified as aforesaid, the surplus shall,

within seven days after the rendering of such account as aforesaid, be paid into the receipt of the exchequer, to the credit of and as part of the consolidated fund of the united kingdom; and if default shall be made in the payment of any such surplus as aforesaid into the receipt of the exchequer, to the credit of the consolidated fund, the amount thereof shall be and be deemed a specialty debt due to his Majesty; and the lord high treasurer or any three of the commissioners of his Majesty's treasury for the time being shall or may from time to time, by an order under his or their hands, appoint and authorize such person as he or they shall think proper to receive all the fees and emoluments of the said office or employment in respect of which such surplus is due; and every such person shall accordingly have and is hereby invested with full power to receive and compel payment of such fees and emoluments, until such surplus with interest thereon, and all costs and expences occasioned by the nonpayment thereof, are satisfied; and the monies so to be received shall be applied in payment of the same accordingly; and if any surplus shall remain in hand after making all such payments, the same shall be paid to the person entitled to such office or employment: Provided always, That every such officer shall and may retain, out of the surplus so to be paid by him into the receipt of the exchequer, so much money as the lord high treasurer or any three of the commissioners of his Majesty's treasury for the time being, and the lord chief justice or chief baron of the court to which the office or employment of such officer may belong, shall, by writing under their hands, authorize him to retain, as a reasonable compensation for his additional trouble in respect of the increase in the business of his said office or employment.

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surplus shall be paid into the exchequer to the consolidated fund.

Proceedings against defaulters.

XI. That in case the net amount of such fees and emoluments which shall become due to any person, who, on the said twenty-fourth day of May one thousand eight hundred and thirty, shall have held any such office or employment as aforesaid, shall fall short of the net annual value thereof which shall have been certified as aforesaid, every such person, his heirs, executors, or administrators, having an interest in such office or employment, in fee, or for any term either of life or years, shall, during his or their continuance or interest in such office or employment, be entitled to receive from the lord high treasurer or commissioners of his Majesty's treasury, within one calendar month next after the rendering of such account as aforesaid, the full amount of the difference between the net sum which shall have so become due and such certified value; and the amount so to be paid shall be charged upon and paid out of the consolidated fund of the united kingdom, without any fee or deduction whatsoever; and every person, who, on the said twenty-fourth day of May one thousand eight hundred and thirty, shall have been appointed to any office or employment by any judge as aforesaid, shall, during the continuance in office of the person so appointed, under and by virtue of that appointment, be entitled in like manner to receive such difference.

If the receipts fall short of the certified value, the difference shall be paid to the officers out of the consolidated fund.

XII. Provided always, That in case any person entitled to receive or required to pay over any sum of money under the provisions of this act shall die or resign, or be dismissed from his office or employment, before the termination of any year, the executors or administrators of the person so dying, or the person himself so resigning or dismissed, shall render such account as aforesaid for such part of the year during which the person so dying or resigning or dismissed shall have held such office or employment, and shall be entitled to receive or required to pay over an amount proportioned to that part of the year during which such person shall have held the same.

Provision for the case of an officer dying, &c. before the end of the year.

XIII. Provided also, That if any person authorized to make an appointment to any office or employment as aforesaid shall, after the twenty-fourth day of May aforesaid, have appointed, or shall hereafter appoint, any other person or persons, in addition to the person or persons who held such last mentioned office or employment on that day,

If addition is made to the number of persons executing an office, the whole number

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to be entitled only to the same amount of fees or compensation as those before appointed.

No persons hereafter appointed to any office shall be entitled to claim compensation.

This act not to prevent the dismissal of any officer.

Provision for payment of compensation in the event of any offices being abolished.

Power for the treasury to purchase offices in fee or offices abolished.

to execute the duties of such last-mentioned office or employment, all the persons appointed to and executing the duties of such last-mentioned office or employment together shall be entitled to receive the difference between the net amount of the fees and emoluments received by virtue of that office or employment and such net certified value as aforesaid, and shall account for such fees and emoluments, and pay over such surplus as aforesaid, in like manner as if such office or employment had continued to be held by the same person or persons who held the same on the said twenty-fourth day of May, and no person appointed in addition as aforesaid shall be entitled to receive any more than his rateable part of such difference.

XIV. That no person, who, after the said twenty-fourth day of May one thousand eight hundred and thirty, shall be appointed to any such office or employment as aforesaid, shall, nor shall any person who may appear to the satisfaction of the commissioners to be appointed by virtue of this act to have accepted office upon condition of relinquishing any claim to compensation in case of its abolition, be deemed entitled to prefer any claim to compensation in respect of any alteration of any kind whatsoever, which shall be made by lawful authority, in the constitution, process, practice, pleadings, or other proceedings of any of the said courts, or in the constitution, duties, or emoluments of any of the said offices or employments, by such authority as aforesaid.

XV. Provided always, That nothing herein contained shall be construed to prevent any person from being dismissed from any office or employment which he may have held on the said twenty-fourth day of May one thousand eight hundred and thirty, in like manner as he might have been dismissed therefrom if this act had not been made, or to give him any greater or other interest in such office or employment than he might have lawfully claimed or exercised if this act had not been made.

XVI. Provided also, That if any such office or employment as aforesaid shall be abolished by lawful authority, every person, his heirs, executors, or administrators, who under the provisions of this act would have been entitled to receive the difference between the net amount of the fees and emoluments which would have become due and the certified value of such office or employment, in case the said office or employment were not abolished, shall be entitled to receive, during all the time for which such person was entitled to hold the office or employment so abolished, such annual sum as the lord high treasurer or any three of the commissioners of his Majesty's treasury for the time being, and the lord chief justice or lord chief baron of the court to which such office or employment may belong, shall fix and appoint, as a full and fair compensation for the loss of such office or employment, not exceeding in any case the amount of such certified value, and not being less in any case than three fourth parts thereof; and every person, who under the said provisions would be entitled to receive such difference during the joint continuance in office of himself and the person by whom he was appointed to any such office or employment, shall be entitled to receive such sum so to be fixed and appointed as aforesaid by the lord high treasurer or any three of the commissioners of his Majesty's treasury for the time being, and the lord chief justice or lord chief baron of the court to which such office or employment shall belong, during his natural life, if the person appointing him had such an interest in his office as would have so long continued, otherwise during such period only as his interest would have continued.

XVII. That it shall be lawful for the lord high treasurer or commissioners of his Majesty's treasury for the time being, or any three or more of them, to agree with any person or persons who on the said twenty-fourth day of May one thousand eight hundred and thirty shall have held any such office or employment, in fee, or for life or term of years, or otherwise, for the absolute purchase of such office or employment for any sum of money, which sum of money shall be paid out of

the consolidated fund of the united kingdom: and that from and after such purchase and payment all fees and emoluments which shall become due in respect of any such office or employment as shall be so purchased, and shall not have been abolished, shall be received by such person or persons as the lord high treasurer or any three of the commissioners of his Majesty's treasury shall from time to time appoint by writing under their hands, and shall be paid into the receipt of the exchequer, to the credit of and as part of the consolidated fund of the united kingdom.

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XVIII. That nothing in this act contained shall extend to require the No new ac-
render of any account of his Majesty's judges of the courts of record at Westminster other than such as is now required by law. from the judges.

XIX. And whereas, in case of future appointments to any of the Amount of fees,
offices or employments, of which an account is required by this act to be &c. may be re-
rendered, the fees and emoluments payable in respect of the duties of duced, and
such offices or employments may exceed the amount of a reasonable surplus paid
remuneration to the officer holding the same, and it is therefore expe- into treasury.
dient to, provide a power for reducing the same; be it enacted, That it
shall be lawful for the lord high treasurer or the commissioners of his
Majesty's treasury for the time being, or any three or more of them,
when and as often as occasion may be or require, to reduce, so far as
may appear reasonable, the amount of the fees and emoluments to be
thereafter allowed to any officer who shall after the passing of this act
be appointed to any office or employment as to which an account is
required by this act to be rendered as aforesaid, and to direct that the
surplus of the fees and emoluments to be received by him shall, after
deducting such remuneration as aforesaid, be paid into the receipt of the
exchequer, to the credit of and as part of the consolidated fund of the
united kingdom: Provided always, That nothing herein contained shall
affect any right which may be vested in or exercised by the said courts,
or any of them, or any of the judges or officers thereof, of appointing
persons to offices or employments in the same, or of regulating and con-
trolling the manner in which the duties of any such offices or employ-
ments shall be performed.

XX. Provided always, That no future appointment of any person to As to future
any office or employment, whereof an account is by this act required to appointments
be rendered, shall be valid, so as to entitle such person to the fees or to offices
emoluments thereof, until such person shall have given notice in writing whereof an ac-
of such his appointment to the lord high treasurer or to the commis- count is hereby
sioners of his Majesty's treasury for the time being; and that until such required.
notice shall have been given, all fees or emoluments to be received by
virtue of such office or employment shall be accounted for to the lord
high treasurer or to the commissioners of his Majesty's treasury for
the time being, and shall be paid into the receipt of the exchequer
as aforesaid.

XXI. That it shall not be lawful for any officer required to render an No addition to
account of any fees or emoluments by virtue of this act to make any be made in
addition to the number of persons employed in performing the duties of offices without
such office or employment, or to the amount of remuneration to be paid consent of
or allowed to any person or persons in respect of such services, so as treasury.
to increase the disbursements or expences to be charged or claimed by
such officer in respect of such office or employment, without the con-
sent in writing of the said lord high treasurer or commissioners of his
Majesty's treasury for the time being, or any three or more of them.

XXII. That every person who shall swear falsely to any matter re- False swearing
specting which an oath either personally or in writing is hereby required under this act.
or authorized to be made, and shall be convicted of so doing wilfully
and corruptly, shall be deemed guilty of wilful and corrupt perjury, and
shall suffer the pains and penalties of that offence.

XXIII. That it shall be lawful for the said lord high treasurer or the Power of ap-
said commissioners of his Majesty's treasury for the time being, or any pointing com-
missioners.

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1 W. 4, c. 58.

three or more of them, from time to time, as occasion may be or require, to appoint such and so many persons to be commissioners for carrying this act into effect as may to him or them appear fit and necessary, and any three or more of such commissioners to be so appointed shall be competent to act in the execution thereof.

[No. II.] 1 W. IV. c. 69.—An Act for uniting the Benefits of Jury Trial in Civil Causes with the ordinary Jurisdiction of the Court of Session, and for making certain other Alterations and Reductions in the Judicial Establishments of Scotland. [23d July 1830.]

55 G. 3, c. 42. WHEREAS an act was passed in the fifty-fifth year of the reign of his Majesty king George the third, intituled *An Act to facilitate the Administration of Justice in that Part of the United Kingdom called Scotland, by the extending Trial by Jury to Civil Causes*: by which act certain commissioners were appointed for the trial of such causes, and certain regulations made in regard to such trials: And whereas another act was passed in the fifty-ninth year of the reign of his said Majesty, intituled *An Act to amend an Act passed in the fifty-fifth Year of the reign of his present Majesty, intituled 'An Act to facilitate the Administration of Justice in that part of the United Kingdom called Scotland, by the extending Trial by Jury to Civil Causes.'* And whereas another act was passed in the sixth year of the reign of his late Majesty king George the fourth, intituled *An Act for the better regulating of the Forms of Process in the Courts of Law in Scotland*: by which last act certain provisions were made relative to the constitution of the jury court, and which provisions are declared to continue and be in force until the thirtieth day of June in the year one thousand eight hundred and thirty, and from thence to the end of the next session of parliament; and it is further provided by the said last-recited act, that it should be lawful for his Majesty to appoint such persons as he should think fit, to make all inquiries, as they should be directed, by instructions from his Majesty, into the forms of proceeding in trials of civil causes by jury in Scotland, and to report whether these forms may be improved, and at what time and in what manner the union of the benefit of jury trial in civil causes with the jurisdiction of the court of session may be best accomplished: And whereas pursuant to the said last-recited act his late Majesty did, by an instrument under his royal sign manual, appoint certain persons to make the inquiries set forth in the said last-recited act, as more particularly specified in instructions annexed to the said instrument under the royal sign manual: And whereas the said commissioners so appointed made a report to his late Majesty upon the subject matters into which they were appointed to inquire; which report has been laid before both houses of parliament: And whereas it is expedient that the said recited acts should be altered, amended, and continued in certain parts, and that provision should be made for uniting the benefits of jury trial in civil causes with the ordinary jurisdiction of the court of session in Scotland; and that in so doing advantage should be taken of the knowledge and experience of the present lord chief commissioner and of the other lords commissioners of the jury court: And whereas it is also expedient that certain other alterations and reductions should take place in the judicial establishments of Scotland: May it therefore please your Majesty that it may be enacted; and be it enacted, &c., That from and after the fifth day of October next after the passing of this act, the jurisdiction for trial by jury in civil causes shall be united with and shall form part of the ordinary administration of justice in the court of session in Scotland; and the trial of causes by jury shall

From Oct. 5, 1830, trial by jury in civil causes shall be united with the ordinary administration of

take place in the court of session as hereinafter directed: Provided always, That the jury court and the jurisdiction thereof shall continue as now constituted until the said date, after which it shall cease and determine; but without prejudice to the present lord chief commissioner and the other lords commissioners of the jury court respectively continuing to perform the duties herein-after directed.

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justice in the court of session in Scotland.

II. That from and after such union all causes and issues, which, if they had occurred before the passing of this act, must by law have been tried by jury in the jury court, shall be tried by jury in the court of session; and such causes shall be prepared for trial by the lords ordinary respectively before whom such causes shall depend.

Causes to be prepared by the lords ordinary, and tried by jury in the court of session.

III. That from and after the period when such union shall take place as aforesaid, the lords president of the two divisions shall respectively try by jury all issues arising out of causes depending in these divisions respectively when such trials take place at Edinburgh; and may otherwise respectively discharge all duties previously assigned to the lord chief commissioner, in so far as may regard such causes, not being inconsistent with the provisions of this act: Provided always, That it shall continue to be competent to the said lord chief commissioner to perform all such duties; and farther, That for the space of three years from and after the time when such union shall take place, there shall be present and form a component part of the court, upon all occasions when either of the lords president of the two divisions of the court of session shall respectively try by jury any issue arising out of a civil cause, either the lord chief commissioner of the jury court, or one of the judges of the court of session, who at the time of such union shall have held the office of one of the lords commissioners of the jury court; and provided farther, That in the event of the indisposition or necessary absence of either of the said lords president, such issues shall, during the aforesaid space of three years, be tried either by the said lord chief commissioner along with one of the judges of the court of session, or by at least two judges of the court of session, whereof there shall be one of the said judges of the jury court; and that from and after the expiration of that period, such issues shall in the said events be tried by any other judge or judges of the division of the court before which the cause may depend.

Lords president to try all jury causes originating in their respective divisions.

Lord chief commissioner to continue to perform his duties relative to trial of civil causes.

Provision in case of absence of lord president.

IV. Provided always, That if the judges of the court of session who had held the office of commissioners of the jury court shall, before the expiry of three years, be reduced to two, it shall be competent to the lord president of either division to proceed to trial, if he think fit, without any judge who has formerly been of the jury court, and they are hereby empowered so to proceed.

Lord president may proceed to trial without judge of jury court.

V. That it shall and may be lawful for either party to apply to the division of the court to which a cause belongs, that the issue or issues shall be tried before such division; and such division may or may not, in its discretion, order such cause to be so tried.

Application for trial.

VI. That the lord president of each division of the court shall have power, and he is hereby authorized and empowered, to order and direct that any issue or issues shall be tried before the division of the court to which he belongs: Provided always, That for the space of three years as aforesaid, either the lord chief commissioner or one of the aforesaid judges of the jury court shall be one of the court on occasion of such trials.

Lord president may direct issues to be tried before his division of the court.

VII. That all proceedings for the correction of errors or injustice alleged to have been committed in the trial of a cause, and all questions reserved for decision after trial, and all questions relating to the application of the verdict, or the rights and interests arising therefrom, and all questions of expences, shall proceed before the division of the court to which the cause belongs: Provided always, That such division shall have power to order a hearing before the whole court of session, or to require the opinions of the other judges, on such points or questions as such division may deem proper.

Proceedings in error to be taken before the division to which the cause belongs.

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Lord chief
commissioner
to sit as a lord
of session in
jury cases.

Trials by jury
may proceed
when the divi-
sion is not
sitting.

Provision for
extending the
winter and
summer ses-
sions.

Trial of issues
before courts.

Clerks in jury
court.

Reduction of
clerks, &c. in
the court of
session.

VIII. That the said lord chief commissioner shall be empowered and have right to sit and vote in both divisions of the court as a judge of the court of session, in the before-recited and all other proceedings touching any cause now triable in the jury court, both before and after verdict, and shall be entitled to rank immediately after the lord justice clerk.

IX. That trials by jury may proceed at all such times, as well during session as in the vacation, as the division of the court before which the cause stands inrolled shall appoint; and all causes remaining untried and entered as ready for trial, at the termination of the winter or summer sessions, or at the commencement of the Christmas recess, shall be tried at sittings of the court to be held immediately after these periods respectively, excepting only such causes as, on the motion of any party, the court may think fit to postpone.

X. That it shall and may be lawful for his Majesty, his heirs and successors, with consent of his privy council, and he is hereby empowered, if he shall think fit, to order and direct that the winter and summer sessions of the court of session, or either of them, shall be extended, and to specify the time or times of such extension, and the precise duration thereof, and to direct that such extension shall apply either to the whole court of session, or exclusively to the permanent lords ordinary: Provided always, That such extension shall not on the whole exceed the space of one calendar month in the course of the year; and that it shall in like manner be lawful for his Majesty thereafter to direct that such extension be diminished as to duration, and altered or varied as to the time or times when the same shall take place, and that the sessions shall in like manner be again extended as occasion may require, and the said court, or the permanent lords ordinary, shall sit at the time or times and during the period or periods which may be so ordered by his Majesty; and for the information of his Majesty in this behalf, the lord president of the court of session is hereby required, on or before the fifteenth day of January in every year, to transmit to one of his Majesty's principal secretaries of state a return, according to the form prescribed in the schedule hereunto annexed; which return shall be laid before both houses of parliament.

XI. That all causes or issues appointed to be tried before any circuit court shall and may be so tried before any one or more of the judges of the court of judicary when upon circuit; and at all trials before any circuit court the jury shall be taken from the lists prepared for the trial of criminal offences: Provided always, That it shall be competent to either division of the court of session, if in their judgment it shall be considered necessary, to direct any causes or issues to be tried by any other judge or judges of the court of session at any circuit town, and if necessary for the trial of the same to cause jurymen to be summoned in the manner provided by the before recited acts.

XII. That the clerks and macers of the jury court shall continue to discharge the duties of their respective offices in the court of session, after such union, as well at Edinburgh as on the circuits; and that all other inferior offices in the jury court shall be and the same are hereby abolished.

XIII. That the two vacancies which shall next occur in the office of principal clerk of session, as also in the office of deputy clerk of session, shall not be supplied; and that in like manner the vacancies in the offices of the other clerks belonging to the court of session shall not be supplied until the total number of such clerks, including those connected with proceedings in trial by jury, shall not exceed the number of clerks exclusively belonging to the court of session at the passing of this act; and it shall be lawful for the said court, from time to time as said vacancies occur, to make such regulations as may be necessary for duly apportioning the duty among the remaining clerks; and it is provided that as vacancies shall occur in the office of macer, the number of

macers shall be reduced, so that they shall not exceed the number of **No. II.**
 macers officiating exclusively in the court of session at the passing of 1 W. 4, c. 69.
 this act.

XIV. That the appointment of depute clerks and of assistant clerks of session shall be vested in his Majesty; and it is hereby provided, that during the necessary absence of any principal clerk of session it shall be competent for any depute clerk of session to discharge the duties of such principal clerk. **Appointment of depute clerks to be in his Majesty.**

XV. That no payment on account of the fee fund of the court of session, nor any fee or demand by any clerk or officer of that court, shall be exigible in respect of any step or proceeding in any cause which might not have been exigible if such cause had been brought into the jury court previously to the passing of this act. **Certain causes to be exempted from the fee fund.**

XVI. That all the provisions of the foresaid recited acts now in force, in so far as not inconsistent with this act, shall be continued and remain in force until altered or revoked by parliament, and that all rules and regulations in observance in the jury court of the time of the union of jury trial in civil causes with the administration of justice in the court of session, established and enforced by act of sederunt, shall continue and be observed as rules and regulations applicable to the court of session after such union, until the same shall be altered by acts of sederunt; and it is hereby provided, that the said court of session shall have full power and authority, by acts of sederunt, to make all regulations for duly adapting the forms previously observed in the jury court to the proceedings in the court of session, and afterwards to alter and amend such regulations when necessary: Provided always, That such regulations be not inconsistent with the provisions of this or any other act of parliament now in force; and that all acts of sederunt authorized by this act to be made shall be laid before parliament, if sitting, within fifteen days from the respective dates thereof, and if parliament be not sitting, within fifteen days from and after the next meeting of parliament. **Provisions of above recited acts to remain in force where not inconsistent with this act.** **Acts of sederunt to be laid before parliament.**

XVII. That in the event of the death or resignation of the said lord chief commissioner, or of any of the other lords commissioners of the jury court, no successor shall be appointed to any such judge or judges as commissioner of the jury court. **No successors to be appointed to the present jury court judges.**

XVIII. That from and after the termination of the present existing interest in the office of lord justice general, that office shall devolve upon and remain united with the office of lord president of the court of session, who shall perform the duties thereof as presiding judge in the court of judiciary; and that the salary attached to the office of lord justice general shall cease, and that the appointment of macers of the said court shall be vested in his Majesty. **Office of lord justice general to devolve on lord president.**

XIX. That when the office of lord justice general shall have devolved upon the lord president of the court of session, and when he shall deem it expedient to be present at any circuit court, it shall be lawful for him to dispatch business in such court, whether any other judge or judges of the court of judiciary be or be not present; any thing contained in an act of the parliament of Scotland, passed in the year one thousand six hundred and seventy-two, intituled *An Act concerning the Regulation of the Judicatories*, or in an act passed in the twentieth year of the reign of his Majesty king George the second, intituled *An Act for taking away and abolishing the Heritable Jurisdictions in that Part of Great Britain called Scotland, and for making Satisfaction to the Proprietors thereof, and for restoring such Jurisdictions to the Crown, and for making more effectual Provision for the Administration of Justice throughout that Part of the United Kingdom, by the King's Courts and the Judges there, and for obliging all Persons acting as Procurators, Writers, or Agents in the Law in Scotland to take the Oaths, and for rendering the Union of the Kingdoms more complete*, or in any other law or custom to the contrary notwithstanding. **In such case lord president to dispatch business in any circuit court notwithstanding act of the Scotch parliament 1672, c. 40, or 20 G. 2, c. 43.**

XX. That when vacancies shall occur among the permanent lords **Lords ordinary to be reduced**

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1 W. 4, c. 69.

to five, and the
court to thir-
teen.

Transference of
admiralty juris-
diction.

1672, c. 40.

Sheriffs to have
jurisdiction in
maritime
causes.

Maritime
causes to be
tried in same
manner as
other causes.

10 G. 4, c. 56.

Provision
when counties
are separated
by water.

ordinary of the court of session, whether by death, resignation, or removal into one of the divisions of the inner house, such vacancies shall not be filled up until the number of permanent lords ordinary shall be reduced to five, so that the total number of judges composing the court of session, including the lord president and the lord justice clerk, shall be limited to thirteen.

XXI. And whereas all maritime causes may now be brought by review before the court of session, and many causes formerly heard and determined by the high court of admiralty are now remitted to the jury court: And whereas the court of justiciary holds a cumulative jurisdiction with the high court of admiralty as to all crimes competent to be tried by the high court of admiralty: And whereas it has become unnecessary and inexpedient to maintain any separate court for maritime or admiralty causes; be it therefore enacted, That the high court of admiralty be abolished, and that hereafter the court of session shall hold and exercise original jurisdiction in all maritime civil causes and proceedings of the same nature and extent in all respects as that held and exercised in regard to such causes by the high court of admiralty before the passing of this act; and all applications of a summary nature connected with such causes may be made to the lord ordinary on the bills: Provided always, That all such causes, not exceeding the value of twenty-five pounds sterling, shall be instituted and carried on in the first instance before an inferior court, in the manner directed and with the exceptions specified in an act of the parliament of Scotland, passed in the year sixteen hundred and seventy-two, intituled *An Act concerning the Regulation of the Judicatories*.

XXII. That the sheriffs of Scotland and their substitutes shall, within their respective sheriffdoms, including the navigable rivers, ports, harbours, creeks, shores, and anchoring grounds in or adjoining such sheriffdoms, hold and exercise original jurisdiction in all maritime causes and proceedings, civil and criminal, including such as may apply to persons residing furth of Scotland, of the same nature as that heretofore held and exercised by the high court of admiralty.

XXIII. That the finding of caution and using of arrestment heretofore observed in the high court of admiralty, and all regulations relative thereto, may be enforced in the foresaid courts respectively; and maritime causes may be heard and determined by the sheriff according to the same modes and rules which are applicable in the sheriff court to causes not maritime, including the mode prescribed in an act passed in the tenth year of the reign of his late Majesty king George the fourth, intituled *An Act for the more effectual Recovery of Small Debts, and for diminishing the Expences of Litigation in Causes of small Amount, in the Sheriff Courts in Scotland*; and the sentences, interlocutors, and decrees pronounced by sheriffs in maritime causes shall be subject to review by the courts of session and justiciary respectively, in the same way and manner in which sentences, interlocutors, and decrees of sheriffs in similar causes not maritime are subject to review at present, and not otherwise: Provided always, That it shall not be competent to the sheriff to try any crime committed on the seas of a nature which it would not be competent for that judge to try if the crime had been committed on land.

XXIV. That where counties are separated from each other by a river, or by a firth or estuary, the sheriffs of the counties adjoining to the sides thereof shall have a cumulative jurisdiction over the whole intervening space so occupied by water: Provided always, That the pursuer of all civil causes shall, where such cumulative jurisdiction applies, bring the cause before the sheriff of that county within which the defender may reside; and it is provided, that where there are several defenders in the same cause, residing in different counties, the same rules shall apply in regard to the citation of the whole of such defenders before the same sheriff court, which are observed in similar circumstances with respect to causes not maritime; and it is provided farther,

that sheriffs shall respectively have power to remit such causes from their own court to that of another sheriff *ob Contingentiam*, or for other sufficient cause. No. II.
1 W. 4, c. 69.

XXV. That from and after the commencement of this act, the office of the judge admiral shall be and the same is hereby abolished, as also the offices of all clerks and officers belonging to that court; and it is hereby provided, that all actions and proceedings which shall be depending on the said fifth day of October before the high court of admiralty shall be transferred to the sheriff of any court wherein such action and proceeding might have originated if this act had been passed previously to the commencement of such actions or proceedings, and the same shall thereupon be heard and determined in the same manner as if they had been brought before such sheriff in the first instance; and as soon as conveniently may be after the said fifth day of October, the processes in all such depending actions shall be transmitted accordingly to such sheriff by the clerk of the high court of admiralty, together with an inventory made by the said clerk, to the accuracy whereof he shall make oath if required: Provided always, That if any doubt shall arise touching the transmission of any such process, it shall be competent to the clerk of the high court of admiralty, or to any party in any such cause, to apply to the lord ordinary on the bills, who shall give directions thereupon, and whose directions shall be final; and provided also, that when the parties to any such cause shall, previously to such transmission, give in a joint note to the said clerk, setting forth their wish that such cause should proceed in the court of session instead of being so transferred to the sheriff, and shall therein specify the lord ordinary by whom they are desirous that such cause should be decided, the clerk of the high court of admiralty shall thereupon transmit the process, together with the said note, to one of the principal clerks of session, and such cause shall be inrolled before such lord ordinary, and shall thereafter be heard and determined in the same way as if such cause had been instituted in the court of session in terms of this act. Office of judge admiral abolished.
Provision for depending actions.

XXVI. That as soon as conveniently may be after the fifth day of October next after the passing of this act, all other processes, records, and warrants of decrees, together with an inventory thereof made by the admiralty clerk, which he is hereby required to make, and to make oath to the accuracy thereof if required, shall be transmitted to the general register house at Edinburgh. Provision as to other processes.

XXVII. That the sheriff clerks of the several counties of Scotland shall respectively act as clerks to the sheriffs in maritime causes: Provided always, That neither that officer, nor any other person appointed to any office, or acquiring right to any fees or emoluments in virtue of the provisions of this act, shall be entitled to prefer any claim to compensation in consequence of the subsequent abolition of such office or fees, or of any alteration therein. Sheriff clerks to act as clerks to sheriffs in maritime causes.

XXVIII. That it shall and may be lawful for all persons entitled, before the passing of this act, to conduct causes as procurators before the high court of admiralty in Scotland, and all such persons are hereby authorized, during their respective lives, to conduct, as agents before the court of session, all or any causes and proceedings whatsoever which are or may be competently heard and determined in that court. Procurators in admiralty court.

XXIX. That all inferior admiralty jurisdiction, not dependent upon the high court of admiralty, shall continue as heretofore, but the judgments of such courts shall be subject to review solely in the courts of session and judiciary respectively: Provided always, that nothing herein contained shall extend or be construed to extend to lessen or take away any salary or allowance now payable to the sheriff substitute of the district of the town of Leith by the commissioners of police of the said town, but the same shall continue to be paid as heretofore. As to inferior admiralty jurisdiction.

XXX. That so much of an act passed in the fourth year of the reign of his late Majesty king George the fourth, intituled *An Act for the Regulation of the Court of the Commissaries of Edinburgh, and for altering and* Each of the sheriffdoms of Edinburgh,

No. II.
1 W. 4, c. 69.

Haddington,
and Linlith-
gow to consti-
tute a commis-
sariat.

Jurisdiction of
commissary
court of Edin-
burgh re-
stricted.

Actions of
aliment.

Consistorial
actions to be
instituted in the
court of ses-
sion.

Transmission
of consistorial
processes.

Regulation as
to causes
transmitted.

Regulations in
regard to con-
sistorial ac-
tions.

As to trial of
such causes by
jury.

Regulations as
to proofs.

Incorporated
solicitors of
Edinburgh
may conduct
causes before
the court of
session.

regulating the Jurisdiction of inferior Commissaries in Scotland, as provides that the sheriffdoms of Edinburgh, Haddington, and Linlithgow shall be the commissariat of Edinburgh, be repealed; and that the commissariat of Edinburgh shall comprehend only the sheriffdom of Edinburgh; and it is hereby provided, that the sheriffdoms of Haddington and Linlithgow shall each constitute a commissariat, and that the whole other provisions of the said recited act shall apply to the said sheriffdoms of Haddington and Linlithgow in the same way in all respects as the same apply to the other sheriffdoms of Scotland where the sheriff is commissary.

XXXI. That the commissary court of Edinburgh shall possess and exercise the same and no other jurisdiction in the sheriffdom of Edinburgh than that possessed and exercised by sheriffs being commissaries in other sheriffdoms of Scotland; and that any jurisdiction of a more extensive nature heretofore possessed or exercised by the commissary court of Edinburgh shall entirely cease, save and except such as may regard the granting of confirmation of testaments of persons dying furth of Scotland, having personal property in Scotland, which jurisdiction is hereby reserved to the said court.

XXXII. That actions of aliment may be instituted, heard, and determined in any sheriff court of Scotland.

XXXIII. That all actions of declarator of marriage, and of nullity of marriage, and all actions of declarator of legitimacy and of bastardy, and all actions of divorce, and all actions of separation *a mensa et thoro*, shall be competent to be brought and insisted on only before the court of session.

XXXIV. That all such actions which shall be depending before the commissary court at the commencement of this act, shall be transmitted to the lord president of the court of session: Provided always, that where a proof shall have been allowed by the said court of the commissaries previously to the commencement of this act, such proof shall be concluded before such action shall be transmitted as herein directed.

XXXV. That the lord president shall remit all causes so transmitted to such lord ordinary as he may think fit for preparation and judgment; and the judgments of the lords ordinary, in these and in all other actions of the same description instituted in the court of session, shall be subject to the review of the division of the court to which the lord ordinary may belong, in the same way as in other civil causes.

XXXVI. That the lord ordinary shall in all actions of divorce administer the usual oath of calumny to the pursuer; and no decree or judgment in favour of the pursuer shall be pronounced in any of the consistorial actions herein-before enumerated, whether appearance shall or shall not be made for the defendant, until the grounds of action shall be substantiated by sufficient evidence.

XXXVII. That such causes shall not be appropriate to trial by jury, but it shall be competent to either division of the court of session, or to a lord ordinary after advising with the division of the court to which he belongs, to direct that any such cause, or any issue or issues of fact connected therewith, be tried by jury; and it is hereby provided, that in the swearing of witnesses in consistorial causes, the same oath shall be administered that is in use in the other courts of justice in Scotland.

XXXVIII. That when a proof in any such cause shall be directed to be taken by commission, the remit to take such proof shall be made to the commissary court of Edinburgh, which court, or any judge thereof, shall take such proofs accordingly, and no judge thereof shall receive any additional remuneration on that account.

XXXIX. That it shall and may be lawful for the incorporated solicitors practising before the consistorial court of Edinburgh previous to the passing of this act, and they and each of them are and is hereby authorized and empowered, during their respective lives, to conduct, as agent or agents before the court of session, all or any causes or proceedings, such as have heretofore been carried on before the court of the

commissaries of Edinburgh, which may hereafter be proceeded in, heard, or determined before the court of session.

No. II.
1 W. 4, c. 69.
Agency fees,
&c.

XL. That summonses in maritime and consistorial causes instituted in the court of session shall be signed by one of the principal or depute clerks of session, and it shall not be necessary that any such summons should pass the signet, or require any concurrence for the public interest; and it is provided, that for conducting such causes in the court of session no agent shall be entitled to a higher rate of charge for any part of such duty than such as would have been legally exigible for the same duty in the high court of admiralty, or in the court of the commissaries of Edinburgh respectively, before the passing of this act; and no fee or demand on account of the fee fund of the court of session, or on account of any clerk or officer in that court, shall be due or exigible in any such cause.

XLI. That when vacancies occur in the offices of the judges of the commissary court of Edinburgh, such vacancies shall not be filled up, and as soon as vacancies shall occur in the whole of such offices, the said court shall be entirely abolished, and the whole powers and jurisdiction, as then competent to the said court, shall thereupon be transferred to the sheriff of the county of Edinburgh, who shall exercise such jurisdiction in all respects, and the provisions of the before-recited act, passed in the fourth year of the reign of his late Majesty king George the fourth, shall apply to the sheriffdom of Edinburgh, in the same way as such provisions apply to the other sheriffdoms of Scotland; and it is provided, that when, in consequence of vacancies in the said offices, the number of the commissaries of Edinburgh shall be reduced to one, it shall be lawful for his Majesty's principal secretary of state for the home department to appoint, from time to time, such number of persons, being sheriffs depute of counties, as he shall think fit, to take proofs in consistorial causes, which duty the persons so appointed shall perform, but without prejudice to the said remaining commissary also performing the same; and the said persons shall not receive any remuneration on account of such duty from any party in any such cause.

Offices of the
commissaries
abolished.

XLII. That as vacancies shall occur in the office of baron of the court of exchequer in Scotland, the same shall not be filled up until the number of such barons shall be reduced, so that the said court shall consist only of the lord chief baron and of one baron of exchequer; and it is hereby provided, that it shall be competent to these judges, and to either of them, in the absence of the other, to exercise the whole jurisdiction and powers of the court of exchequer, any law or practice to the contrary notwithstanding: Provided always, that after the number of the judges shall be so reduced, it shall be competent to the said court, when deemed expedient, to require of the lord president of the court of session that one judge of that court shall be directed to attend the court of exchequer; and on receiving such requisition, one of the ordinary judges of the court of session shall attend the said court of exchequer, and shall have voice and vote in all matters then to be brought before the said court, in the same way in all respects as if such judge were a baron of the court of exchequer.

Two barons of
the court of
exchequer to
be reduced.

XLIII. That the lord chief commissioner and the other lords commissioners of the jury court, and the judge of the high court of admiralty in Scotland, shall, notwithstanding the abolition of these several courts, continue to receive, during their respective lives, the salaries payable to them at the time of the passing of this act.

Judges of jury
court and ad-
miralty to con-
tinue to receive
their salaries.

XLIV. That the several sums of seven thousand pounds, two thousand four hundred pounds, and one thousand two hundred pounds, authorized by the before recited acts to be annually paid on account of the jury court, shall cease, save and except so much thereof as shall be certified by the lord president of the court of session to be requisite to be applied in defraying the expences attending the circuits of such of the judges of the court of session as are not judges of the court of justice, and of clerks and macers, the application of which sum shall be

Certain pay-
ments on ac-
count of jury
courts to cease.

No. II.
1 W. 4, c. 69.

Payment of
salaries of
judges, &c.

Compensation
to be made to
clerks, &c.

Orders for
compensation
to be laid
before parlia-
ment.

Commence-
ment of act.

accounted for in the court of exchequer in Scotland; and it is hereby provided, that the salaries of the judges, clerks, and macers, hitherto paid from the aforesaid sums, shall be paid, by order of the said court of exchequer, out of the monies charged or made chargeable by the acts passed in the seventh and tenth years of the reign of her Majesty queen Anne, with the fees, salaries, and other charges allowed or to be allowed for keeping up the courts of session, justiciary, or exchequer, in Scotland.

XLV. That it shall and may be lawful for any clerk or other officer holding his office at the passing of this act, and entitled to compensation for loss to be suffered through the operation and effect of this act, to make application to the court of exchequer in Scotland, which court shall direct intimation thereof to be given to his Majesty's advocate in behalf of the public; and thereafter the said court shall inquire into and consider the circumstances of the case, and shall award to every such person such compensation as the court shall think such persons entitled to, either by the payment of a gross sum or by way of annuity, as the court shall think proper: Provided always, That every order made for such compensation shall set forth the nature of the office, the grounds on which compensation is prayed, and on which the award may be founded; and that a copy of every such order shall be laid before parliament within two calendar months after the commencement of the session next ensuing after making the same; and no such decision of the said court shall be final and conclusive until two calendar months after a copy of the order of such court for compensation shall have been so laid before parliament; and any sum of compensation so to be awarded shall be paid and payable upon the order of the said court of exchequer, in such manner and at such time or times as the court shall direct, out of the aforesaid monies charged or made chargeable by the aforesaid acts passed in the seventh and tenth years of the reign of her Majesty queen Anne, and every sum of compensation shall be clear of all taxes and deductions whatsoever.

XLVI. That the whole provisions of this act, unless where otherwise herein specially provided, shall commence and take effect from and after the fifth day of October next after the passing of this act.

SCHEDULE to which this Act refers.

RETURN of the Number of CAUSES instituted and decided in the Court of Session in SCOTLAND, between the 1st Day of January 18 and the 1st Day of January 18 ; shewing the Number of Causes ready for Judgment, but not disposed of at the last of these dates.

OUTER HOUSE.						
Names of Lords Ordinary.	Number of Causes for the first Time inrolled before each Lord Ordinary.	Number of Decrees in Absence.	Number of Final Judgments pronounced in litigated Causes.	Number of Causes ready for Debate, but not heard; with the Date when the first of these Causes was first inrolled in the Debate Roll.	Number of Causes at Avizandum.	Observations.
INNER HOUSE.						
	Number of reclaiming Notes presented against Judgment of Lords Ordinary in the Course of the above Year.	Number of incidental and summary Applications presented during the same Period, distinguishing those which have passed as matters of form from such as have been followed by Litigation.	Number of Final Judgments pronounced in litigated Causes, without the Intervention of a Jury.	Number of Causes tried by Jury.	Number of Causes ready for Judgment on hearing Counsel or otherwise; with the Date when the first of such Causes was so ready, and distinguishing those to be tried by Jury from such as are not to be so tried.	Observations.
First Division.						
Second Division.						

[No. III.] 1 W. IV. c. 70.—An Act for the more effectual Administration of Justice in England and Wales.

[23rd July 1830.]

WHEREAS the appointment of an additional puisne judge to each of his Majesty's superior courts of common law would cause much greater facility and dispatch of business therein : And whereas it is expedient to put an end to the separate jurisdiction for the county palatine of Chester and the principality of Wales, and to make more effectual provision for the administration of justice in England and Wales ; be it therefore enacted, &c., That whenever his Majesty shall be pleased to appoint an additional puisne judge to either of his courts of the king's bench, the common pleas, and the exchequer, the puisne judges of such court shall sit by rotation in each term, or otherwise, as they shall agree amongst themselves, so that no greater number than three of them shall sit at the same time in banc for the transaction of business in term, unless in the absence of the lord chief justice or lord chief baron ; and that it shall and may be lawful for any one of the judges of either of the said courts, when occasion shall so require, while the other judges of the same court are sitting in banc, to sit apart from them for the business of adding and justifying special bail, discharging insolvent debtors, administering oaths, receiving declarations required by statute, hearing and deciding upon matters on motion, and making rules and orders in causes and business depending in the court to which such judge shall belong, in the same manner and with the same force and validity as may be done by the court sitting in banc.

Puisne judges to sit in rotation ; but not less than three at a time in banc.

Salaries to additional judges.

II. That from and after the appointment of any such additional judge there shall be issued and paid and payable out of and charged upon the consolidated fund of the united kingdom of Great Britain and Ireland (after paying or reserving sufficient to pay all such sums as have been directed by any former act of parliament to be paid out of the same, but with preference to all other payments which shall hereafter be charged upon the same), the sum of five thousand pounds to such additional judge as he shall be so appointed, as and for a yearly salary, to be paid from time to time quarterly, free and clear from all taxes and deductions whatsoever, on the fifth day of January, the fifth day of April, the fifth day of July, and the tenth day of October, by equal portions, the first payment to be made on the first of such days respectively as shall occur after the appointment of the judge entitled to receive the same ; and that if any person hereafter appointed to such office shall die, or resign the same, the executor or administrator of the person so dying, or the person so resigning, shall be entitled to receive such proportionable part of the salary aforesaid as shall have accrued during the time that such person shall have executed such office since the last payment, and that the successor of any such person so dying or resigning shall be entitled to receive such portion of the salary as shall be accruing or shall accrue from the day of such death or resignation : Provided always, That the removal of a puisne judge from one court to another shall not be deemed a new appointment under this act.

Retirement allowances to additional judges.

III. That upon the resignation of any such additional judge it shall be lawful for his Majesty, by his letters patent under the great seal of Great Britain, to give and grant to the person so resigning (under and subject to the same conditions, limitations, and restrictions as any annuity on resignation can now by law be granted to any other judge of the same court) an annuity during his life not exceeding the sum of three thousand five hundred pounds yearly, or such other sum as shall by any act hereafter to be made provided for judges resigning their offices to be paid and payable out of and charged upon the consolidated fund aforesaid, free and clear of all taxes and deductions whatsoever, by even quarterly payments to be made respectively on the days aforesaid in each year.

Additional judges may

IV. That every judge of the said courts, to whatever court he may

belong, shall be and he is hereby accordingly authorized to sit in London and Middlesex for the trial of issues arising in any of the said courts, and to transact such business at chambers or elsewhere, depending in any of the said courts, as relates to matters over which the said courts have a common jurisdiction, and as may, according to the course and practice of the court, be transacted by a single judge. (1)

V. That a certain act passed in the third year of the reign of his late Majesty king George the fourth, intituled *An Act to repeal an Act of the First and Second Years of His present Majesty, for facilitating the Dispatch of Business in the Court of King's Bench, and to make further Provision in lieu thereof*, shall be and the same is hereby repealed, except so far as it repeals the said former act, and except so far as relates to the last warrant issued by his said late Majesty under the said act.

VI. That in the year of our Lord one thousand eight hundred and thirty-one, and afterwards, Hilary term shall begin on the eleventh and end on the thirty-first day of January; Easter term shall begin on the fifteenth day of April and end on the eighth day of May; Trinity term shall begin on the twenty-second day of May and end on the twelfth day of June; and Michaelmas term shall begin on the second and end on the twenty-fifth day of November; and that the essoign and general return days of each term shall, until further provision be made by parliament, (2) be as follows; that is to say, the first essoign or general return day for every term shall be the fourth day before the day of the commencement of the term, both days being included in the computation; the second essoign day shall be the fifth day of the term; the third shall be the fifteenth day of the term; and the fourth and last shall be the nineteenth day of the term, the first day of the term being already included in the computation; with the same relation to the commencement of each term as they now bear, and shall be distinguished by the day of the term on which they respectively fall, the Monday being in all cases substituted for the Sunday when it shall happen that the day would fall on Sunday, except always that in Easter term there shall be but four returns instead of five, the last being omitted; provided that if the whole or any number of the days intervening between the Thursday before and the Wednesday next after Easter day shall fall within Easter term, there shall be no sittings in banc on any of such intervening days, but the term shall in such case be prolonged and continue for such number of days of business as shall be equal to the number of the intervening days before mentioned exclusive of Easter day, and the commencement of the ensuing Trinity term shall in such case be postponed, and its continuance prolonged for an equal number of days of business.

VII. That when the alteration of the terms herein-before mentioned shall take effect not more than twenty-four days, exclusive of Sundays, after any Hilary, Trinity, and Michaelmas term, nor more than six days, exclusive of Sundays, after any Easter term, to be reckoned consecutively immediately after such terms, shall be appropriated to sittings in London and Middlesex for the trial of issues of fact arising in any of the said courts; provided that if any trial at bar shall be directed by any of the said courts, it shall be competent to the judges of such court to appoint such day or days for the trial thereof as they shall think fit; and the time so appointed, if in vacation, shall for the purpose of such trial be deemed and taken to be a part of the preceding term; provided also, that a day or days may be specially appointed, at any time not being within such twenty-four days, for the trial of any cause at

No. III.
1 W 4, c. 70
sit in London
and Westminster.

Terms altered.

Limiting the
time for sit-
tings.

(1) The words "common jurisdiction" must be understood with reference to the subject matter of the application, and not with reference to the court itself; *Phillips v. Drake*, 2 Dowl. P. C. 45.

(2) See *post*, 1 W. 4, c. 3, repealing the above provisions as to the essoign and general return days.

No. III. nisi prius, with the consent of the parties thereto, their counsel or
1 W. 4, c. 70. attorneys.

Judgments to be pronounced in all trials for felonies upon record during the sittings, herein is excepted.

IX. That upon all trials for felonies or misdemeanors upon any record of the court of king's bench, judgment may be pronounced during the sittings or assizes by the judge before whom the verdict shall be taken, as well upon the person who shall have suffered judgment by default or confession, upon the same record, as upon those who shall be tried and convicted, whether such persons be present or not in court, excepting only where the prosecution shall be by information filed by leave of the court of king's bench, or such cases of informations filed by his Majesty's attorney general wherein the attorney general shall pray that the judgment may be postponed; and the judgment so pronounced shall be indorsed upon the record of nisi prius, and afterwards entered upon the record in court, and shall be of the same force and effect as a judgment of the court, unless the court shall, within six days after the commencement of the ensuing term, grant a rule to show cause why a new trial should not be had or the judgment amended; and it shall be lawful for the judge before whom the trial shall be had either to issue an immediate order or warrant for committing the defendant in execution, or to respite the execution of the judgment, upon such terms as he shall think fit, until the sixth day of the ensuing term; and in case imprisonment shall be part of the sentence, to order the period of imprisonment to commence on the day on which the party shall be actually taken to and confined in prison.

Jurisdiction of courts at Westminster extended to counties palatine, &c.

XIII. That from and after the commencement of this act his Majesty's writ shall be directed and obeyed, and the jurisdiction of his Majesty's courts of king's bench, common pleas, and exchequer respectively, and of the several judges and barons thereof, shall extend and be exercised over and within the county of Chester and the county of the city of Chester, and the several counties in Wales, in like manner, to the same extent, and to and for all intents and purposes whatsoever as the jurisdiction of such courts respectively is now exercised in and over the counties of England not being counties palatine, any statute heretofore passed to the contrary notwithstanding; and that all original writs to be issued into the said several counties of Chester, city of Chester, and Wales, shall be issued by the cursitors for London and Middlesex, and the process and proceedings thereon shall be issued by and transacted with such of the officers of the several courts of king's bench and common pleas as shall be named for that purpose by the chief justice of such courts respectively, each naming 'for his own court.

Present jurisdiction of counties palatine and principality of Wales to cease.

Suits to be transferred.

XIV. That all the power, authority, and jurisdiction of his Majesty's court of session of the said county palatine of Chester, and of the judges thereof, and of his court of exchequer of the said county palatine, and of the chamberlain and vice chamberlain thereof, and also of his judges and courts of great sessions, both in law and equity, in the principality of Wales, shall cease and determine at the commencement of this act; and that all suits (1) then depending in any of the said courts, if in equity, shall be transferred, with all the proceedings thereon, to his Majesty's court of chancery or court of exchequer, as the plaintiff or (in default of his making choice before the last day of next Michaelmas term) as any defendant shall think fit, and if in law, to the court of exchequer, there to be dealt with and decided according to the practice of those courts respectively, or of the courts from whence the same shall be transferred, according to the discretion of the court to which the

(1) Upon the plea of *nul tiel record* to a declaration in *scire facias* in the exchequer, on a judgment obtained in the court of great sessions in Wales before the passing of this act, the plaintiff was held entitled to the judgment of the court, upon producing the certificate and affidavit of the record being in the hands of the officer, in pursuance of the rules of M. T. 1 W. 4, though the actual judgment is not in court; *Howell v. Brown*, 3 Dougl. 805.

same shall be transferred; which court shall, for the purpose of such suits only, be deemed and taken to have all the power and jurisdiction, to all intents and purposes, possessed before the passing of this act by the court from whence such suit shall be removed.

No. III.

1 W. 4, c. 70.

XV. Provided always, That nothing in this act contained shall be construed to abolish or affect the obligations and duties or the jurisdiction or rights now lawfully imposed upon, performed, or claimed and exercised by the mayor and citizens of Chester in the courts of the county of the city of Chester or otherwise, save and except that such writs of error or false judgment as may now by any charter or usage of the said corporation be brought upon the judgments of the said courts or any of them before any of the courts abolished by this act, shall hereafter be issued, as in other cases, from inferior courts, and be returnable into his Majesty's court of king's bench.

Not to affect the rights of the corporation of Chester.

XIX. That from and after the time herein appointed for the commencement of this act assizes shall be held for the trial and dispatch of all matters, criminal and civil, within the county of Chester and the several counties and county towns in the principality of Wales, under and by virtue of commissions of assize, oyer and terminer, gaol delivery, and other writs and commissions, to be issued in like manner and form as hath been usual for the counties in England; and all laws and statutes now in force relating to the execution of such commissions, when issued for counties in England, shall extend and be applied to the execution of the commissions issued for the county of Chester and the counties of Wales under the authority of this act.

Assizes to be held in Chester and Wales.

XX. That, until it shall be otherwise provided by law, one of the two judges appointed to hold the sessions of assizes under his Majesty's commission within the county of Chester and principality of Wales shall, in such order and at such times as they shall appoint, proceed to hold such assizes at the several places where the same have heretofore been most usually held within South Wales; and the other of such judges shall proceed to hold such assizes at the several places where the same have heretofore been most usually held in North Wales; and both of such judges shall hold the assizes in and for the county of Chester in like manner as in other counties of England.

Mode of holding assizes in Chester and Wales until his Majesty shall otherwise direct.

XXIII. That the salaries of the judges of the county palatine of Chester, and of the judges of the several courts of great sessions in the principality of Wales, shall, upon the termination of the said offices respectively, make part of the consolidated fund of the united kingdom of Great Britain and Ireland, and a sum equal to the amount of each such salary shall be retained in the exchequer as part of the consolidated fund, and no part thereof shall be issued or carried to the account of the civil list; any thing in any act or acts of parliament to the contrary notwithstanding.

Upon termination of office of Welsh judges, their salaries to be retained, and form part of consolidated fund.

XXIV. And whereas it is expedient that due provision should be made for the compensation of the judges herein-after mentioned, and of other persons having a freehold in their offices in the county of Chester or principality of Wales, for the losses they may sustain by the abolition of their offices or reduction of their fees by virtue of this act; be it therefore enacted, That from and after the commencement of this act there shall be issued, paid, and payable, out of and charged upon the consolidated fund of the united kingdom of Great Britain and Ireland, (after paying or reserving sufficient to pay all former charges thereon, but in preference to any charge hereafter to be made,) to Thomas Jervis esquire, now one of his Majesty's justices of the Chester circuit, the sum of one thousand and fifteen pounds twelve shillings; to Jonathan Raine esquire, now his Majesty's chief justice of the North Wales circuit, the sum of one thousand pounds; and to Robert Matthew Casberd esquire, one of his Majesty's judges of the Brecon circuit, the sum of one thousand pounds; the said several sums to be payable and paid, free and clear from all taxes and deductions whatsoever, by even portions, on the fifth days of January, April, and July, and the tenth day

Compensation to Welsh judges on abolition of their offices.

No. III.

1 W. 4, c. 70.

of October, in each year, the first payment thereof to commence and be made on the first of such days as shall occur after the commencement of this act; and the said annuities respectively to continue during the lives of the parties respectively entitled to receive the same, or until such time as they may respectively be appointed by his Majesty to any other place or office the salary or emoluments of which shall be of equal or greater amount than the said annuities respectively, or in case the salary or emolument of such office shall be of less yearly amount than the annuity which the party appointed to such office is entitled by this act to receive, then the said annuity to be abated and reduced in proportion to the amount of such salary or emoluments, so as to make the whole sum received by the party equal to, but not exceeding, the amount of such annuity.

Compensations to persons affected by abolition of the courts of Wales and Chester.

XXV. That there shall in like manner, 'after the commencement of this act, be issued, paid, and payable out of and charged upon the said consolidated fund, (after paying and reserving as aforesaid, and with such preference as aforesaid,) to the several persons having a freehold interest in such offices in the county of Chester or principality of Wales as shall be abolished or affected by virtue of this act, free and clear of all taxes and deductions whatsoever, such sums of money, at such times, by way of annuity or otherwise, as shall be adjudged and determined to be due to such persons respectively by any commission to be appointed by his Majesty or by virtue of any act of parliament, for the purpose of determining the amount of the compensation that ought to be due and payable in such cases; and that in the meantime and until compensation shall be awarded and determined in manner aforesaid, or the time shall have elapsed that may be appointed for claiming the same, it shall be lawful for the commissioners of his Majesty's treasury of the united kingdom of Great Britain and Ireland, or any three of them, to issue their warrants for the payment to such persons as aforesaid, out of the said consolidated fund, of such half-yearly or quarterly allowances as to the said commissioners shall seem reasonable, both as to the amount and times of payment, on account of such compensation as may thereafter be awarded to the said parties respectively.

Persons appointed under certain restrictions, to the offices about to be abolished, not entitled to compensation.

XXVI. Provided always, That no person shall be entitled to such compensation or allowance as aforesaid, whose appointment to his office was qualified by any condition or reservation expressed in his patent or otherwise made known to such person, that such office or the emoluments thereof were to be held and enjoyed subject to any future provision to be made by parliament touching the same, or without any claim to compensation in case the same should cease or be subjected to any regulation: And provided also, That no person shall be entitled to receive any such compensation or allowance who shall not previously make a full and true statement to the said commissioners of his Majesty's treasury, to be verified on oath before a judge or master in chancery, if they shall think fit so to direct, of the amount of the salary, fees, and emoluments of such office, and of the disbursements and outgoings of the same, for the space of ten years before the passing of this act; and that such compensation or allowance shall cease altogether, or be reduced in amount, as the case may be, whenever the party entitled to receive the same shall be placed in any other public office of which the salary and emoluments shall be equal to the whole or to part of such compensation or allowance, so that in the last-mentioned case no person shall be entitled to receive more of such compensation or allowance than shall be equal to the difference between the full amount thereof and the amount of the salary and emoluments of the office in which he may be hereafter placed.

Records of the several courts abolished to be kept as heretofore

XXVII. That the records, muniments, and writings of the several courts abolished by this act shall, until otherwise provided by law, be kept by the same persons and in the same places as before the passing of this act; and that the court of common pleas shall have the like

power and authority to amend the records of fines and recoveries passed heretofore in any of the courts abolished by this act, as if the same had been levied, suffered, or had in the court of common pleas: Provided always, That in case of the death of any such person before any other provision shall have been made for keeping such records, muniments, and writings, the custody thereof shall be with the clerks of the peace of the several counties to which counties the same shall respectively belong. (1)

No. III.
1 W. 4, c. 70.
fore until otherwise provided for.

XXVIII. That upon all fines which now are or before the commencement of this act shall be duly acknowledged in Chester or Wales, proclamation may be made at the successive assizes to be holden under his Majesty's commission within the county of Chester and principality of Wales, before any judge of such assize, during the continuance of such his commission, in the same manner and form, and with the same force and effect, as if the same had been proclaimed before the justices of Chester and Wales, or any of them; any law or usage to the contrary notwithstanding.

Proclamation upon fines may be made at assizes in Chester or Wales.

XXIX. That all fines and recoveries to be levied and suffered after the commencement of this act, of lands, tenements, or hereditaments in the county of Chester or county of the city of Chester or principality of Wales, shall be levied and suffered in such and the like manner, and the same officers shall be employed therein, as in the case of fines and recoveries now levied or suffered of lands, tenements, or hereditaments in any county of England not being a county palatine.

Fines, &c. to be levied in Chester, &c. as in other counties of England.

XXX. Provided always, That nothing in this act contained shall be taken to affect the right of any lessee by patent under the crown, or of any pensioner or other person lawfully entitled to any portion of the money payable upon fines and recoveries of manors, lands, or tenements in the county of Chester or principality of Wales, but that the same shall be paid and payable by the proper officer of the court of common pleas who shall receive the same, to such lessee or other person, or his agent, in like manner and to the same extent as heretofore, during the continuance of his interest therein.

Not to affect the rights of lessees by patent before the passing of this act.

XXXI. That in all cases where any trust for charitable uses or of a public nature shall have been cast upon the judges of the courts hereby abolished, by virtue of their offices, it shall be lawful for the lord high chancellor or keeper of the seals for the time being, or for the judges of assize upon their circuits in the county of Chester or principality of Wales, to appoint such other trustee or trustees as they shall think fit, by any writing under their hands, in place of the former judge or judges: which trustee or trustees so named shall have the same power and authority, and be subject to the same rules and duties, as the trustee or trustees for whom he or they may be substituted.

Lord chancellor may appoint trustees for charitable uses in lieu of judges abolished by this act.

XXXII. That where by any law, charter, or usage any corporate or other officer or person hath been accustomed or ought to take any oath before any of the judges or other officers or in any of the courts abolished by this act, such officer or person may and shall take the same oath before any judge during the assizes or in open court at the quarter sessions in the county where such oath was formerly taken, and such oath being so taken shall have the same force and effect to all intents and purposes as if taken before any of the judges or in any of the courts abolished by this act.

Officers to take the same oaths before judges hereby appointed as they did before the judges of the courts hereby abolished.

XXXIII. And whereas it is expedient that the accounts of the sheriffs of the county of Chester and principality of Wales should be passed, as nearly as circumstances will admit, in the same manner as heretofore; be it enacted, That the clerk of assize, within ten days after the conclusion of the assizes in the county of Chester and in each county in Wales, shall make out a roll containing the names and places of residence of all persons liable to the payment of any fines, issues,

For passing accounts of sheriffs of county of Chester and principality of Wales.

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1 W. 4, c. 70.

amercements, recognizances, compositions, or other sums imposed or forfeited during the preceding assizes, with the sums set opposite to each name, and shall forthwith transmit the same to the sheriff, with an order upon the sheriff, signed in the name of one of the judges of assize, directing the sheriff to cause such sums to be levied and recovered from the parties liable to pay the same, which order shall be of the same force and efficacy, and be returnable to the same person or persons, as any writ or process heretofore issued to the sheriff for the like purpose; and the sheriff, upon the receipt thereof, shall proceed to levy the sums in the said roll mentioned, and shall be accountable for the same, and all arrears thereof, in the same manner, at the same time, and to the same officer, and shall pass his accounts before the same officer or officers, as he hath been heretofore accustomed. (1)

Attornies general of county of Chester and Wales to continue until his Majesty shall otherwise appoint.

XXXIV. That the several persons holding and exercising within the several counties of Chester and Wales the office of his Majesty's attorney general shall, until his Majesty's pleasure shall be otherwise declared, continue (within their several places and counties where they are now entitled to exercise such office) to have, in person only, and not by deputy, the same rank, name of office, and the same privileges, fees, and emoluments, which by any law or custom they have hitherto enjoyed and held within their respective counties, save and except such fees as would necessarily cease with the abolition of the courts and jurisdictions abolished by this act.

When quarter sessions are to be held (2).

XXXV. And whereas the general quarter sessions of the peace are now directed to be held in each year in the first week after the eleventh day of October, in the first week after the Epiphany, in the first week after the clause of Easter, and in the first week after the translation of St. Thomas the Martyr: And whereas it will be expedient that the times of holding the general quarter sessions of the peace should be altered in part; be it therefore enacted, That in the year of our lord one thousand eight hundred and thirty-one, and afterwards, the justices of the peace in every county, riding, or division for which quarter sessions of the peace by law ought to be held, shall hold their general quarter sessions of the peace in the first week after the eleventh day of October, in the first week after the twenty-eighth day of December, in the first week after the thirty-first day of March, and in the first week after the twenty-fourth day of June; and that all acts, matters, and things done, performed, and transacted at the times appointed by this act for the holding of the general quarter sessions of the peace shall be as valid and binding to all intents and purposes as if the same had been done, performed, and transacted at general quarter sessions of the peace holden at the times by law limited for the holding thereof before the passing of this act.

Landlords to recover possession of lands, &c. after notice of ejectment.

XXXVI. And whereas landlords, to whom a right of entry into or upon any lands or hereditaments may accrue during or immediately after Hilary and Trinity terms respectively, are at present unable to prosecute ejectments against their tenants, so as to try the same at the assizes immediately ensuing, whereby much delay is occasioned in the recovery of the possession of lands and tenements wrongfully withheld by tenants against their landlords; be it therefore enacted, That in all actions of ejectment hereafter to be brought in any of his Majesty's courts at Westminster by any landlord against his tenant, or against any person claiming through or under such tenant, for the recovery of any lands or hereditaments where the tenancy shall expire, or the right of entry into or upon such lands or hereditaments shall accrue to such landlord, in or after Hilary or Trinity terms respectively, it shall be

(1) The mode in which the accounts of sheriffs are to be passed is now regulated by the 3 & 4 W. 4, c. 99.

(2) See the act for preventing the interference of the spring assizes with the April quarter sessions; *post*, Class IX.

lawful for the lessor of the plaintiff in any such action, at any time within ten days after such tenancy shall expire or right of entry accrue as aforesaid, to serve a declaration in ejectment entitled of the day next after the day of the demise in such declaration, whether the same shall be in term or in vacation, with a notice thereunto subscribed, requiring the tenant or tenants in possession to appear and plead thereto within ten days in the court in which such action may be brought; and proceedings shall be had on such declaration, and rules to plead entered and given, in such and the same manner, as nearly as may be, as if such declaration had been duly served before the preceding term: Provided always, That no judgment shall be signed against the casual ejector until default of appearance and plea within such ten days, and that at least six clear days notice of trial shall be given to the defendant before the commission day of the assizes at which such ejectment is intended to be tried; Provided also, That any defendant in such action may, at any time before the trial thereof, apply to a judge of either of his Majesty's superior courts at Westminster, by summons in the usual manner, for time to plead, or for staying or setting aside the proceedings, or for postponing the trial until the next assizes; and that it shall be lawful for the judge in his discretion to make such order in the said cause as to him shall seem expedient. (1)

No. III.
1 W. 4, c. 70.

XXXVII. That in making up the record of the proceedings on any Declaration to such declaration in ejectment it shall be lawful to entitle such declaration specially of the day next after the day of the demise therein, whether such day shall be in term or in vacation, and no judgment thereupon shall be avoided or reversed by reason only of such special title.

XXXVIII. That in all cases of trials of ejectments at nisi prius, when a verdict shall be given for the plaintiff, or the plaintiff shall be non-suited for want of the defendant's appearance to confess lease, entry, or ouster, it shall be lawful for the judge before whom the cause shall be tried to certify his opinion on the back of the record that a writ of possession ought to issue immediately, and upon such certificate a writ of possession may be issued forthwith; and the costs may be taxed, and judgment signed and executed afterwards at the usual time, as if no such writ had issued: Provided always, That such writ, instead of reciting a recovery by judgment in the form now in use, shall recite shortly that the cause came on for trial at nisi prius at such a time and place and before such a judge, (naming the time, place, and judge,) and that thereupon the said judge certified his opinion that a writ of possession ought to issue immediately. (2)

XXXIX. That this act shall, as to all matters not otherwise provided for, commence and take effect upon and from the twelfth day of October in this present year.

(1) This statute only applies to issuable terms; *Doe v. Roe*, 2 Cr. & Jer. 123; 1 Dowl. P. C. 304, S. C. And when a landlord's right of entry accrued on the day after the essoin day of Trinity term, it was held that he was not entitled to serve a declaration in ejectment as of that term; *Doe v. Roe*, 1 Dowl. 79; and it applies only to trials which would lie at the assizes, and not where the property is situate in London or Middlesex; *Doe d. Norris v. Roe*, 1 Dowl. 547.

It is no ground for setting aside a verdict for the plaintiff that he did not give six clear days' notice of trial, as required by the statute, the defendant having appeared and made his defence; *Doe d. Antrobus v. Jepson*, 3 B. & Ad. 402. Neither is it ground of defence at nisi prius that the action had not been commenced within ten days after the right of entry accrued, this being merely matter of irregularity; *Doe d. Rankin v. Brindley*, 4 B. & Ad. 84; 1 Nev. & M. 1, S. C.

(2) These provisions for the issuing of a writ of *habere facias possessionem* are not affected by the 1 W. 4, c. 7 (see post, Part IV, Class 12); and it has been held that the judge has no discretion under it as to the time at which the lessor of the plaintiff shall have possession, but must either grant a certificate to enable him to get immediate possession, or let the case take its regular course; *Doe d. Williamson v. Dawson*, 4 Carr & P. 589; *Doe d. Packer v. Hilliard*, 4 Carr. & P. 132; *Tidd's Supp.* 1833, p. 198. But see *Chitty's Archb.* 4th edit. 638 n. (p.)

Where a sheriff's officer taking possession under a *habere facias possessionem* is dispossessed before delivering possession to the lessor of the plaintiff, it is necessary, in applying for a fresh writ, that it should appear that the persons dispossessing are acting in concert with the defendant; *Doe d. Thompson v. Mirehouse*, 2 Dowl. P. C. 200.

[No. IV.] 1 W. IV. c. 3.—An Act to amend an Act of the last Session, for the better Administration of Justice, so far as relates to the Essoign and General Return Days of each Term, and to substitute other Provisions in lieu thereof; and to declare the Law with regard to the Duration of the Terms in certain cases.

[23rd December 1830.]

1 W. 4, c. 70.

WHEREAS by an act passed in the last session of parliament, intituled *An Act for the more effectual Administration of Justice in England and Wales*, it was amongst other things enacted, That the essoign and general return days of each term should, until further provision be made by parliament, be as follows; that is to say, the first essoign or general return day for every term shall be the fourth day before the day of the commencement of the term, both days being included in the computation, the second essoign day shall be the fifth day of the term, the third shall be the fifteenth day of the term, and the fourth and last shall be the nineteenth day of the term, the first day of the term being already included in the computation, with the same relation to the commencement of each term as they now bear, and shall be distinguished by the day of the term on which they fall, the Monday being in all cases substituted for the Sunday when it shall happen that the day would fall on Sunday, except always that in Easter term there shall be four returns instead of five, the last being omitted: And whereas it is expedient to repeal so much of the said act as is herein recited, and to make other provisions in lieu thereof: Be it therefore enacted, &c., That so much of the said act as is herein-before recited shall be and the same is hereby repealed.

Repeal of so much of recited act as relates to the appointment of essoign days.

When writs are to be returnable.

II. That all writs now usually returnable before any of his Majesty's courts of king's bench, common pleas, or exchequer respectively, on general return days, that shall be made returnable after the first day of January in the year of our lord one thousand eight hundred and thirty-one, may be made returnable on the third day exclusive before the commencement of each term, or on any day, not being Sunday, between that day and the third day exclusive before the last day of the term; and the day for appearance shall, as heretofore, be the third day after such return, exclusive of the day of the return, or in case such third day shall fall on a Sunday, then on the fourth day after such return, exclusive of such day of return.

For removing doubts as to duration of terms.

III. And whereas it is expedient to remove all doubts that may exist as to the duration of the terms in any case that may occur; be it therefore declared and enacted, That in case the day of the month on which any term according to the act aforesaid is to end shall fall to be on a Sunday, then the Monday next after such day shall be deemed and taken to be the last day of the term; and that in case any of the days between the Thursday before and the Wednesday next after Easter shall fall within Easter term, then such days shall be deemed and taken to be a part of such term, although there shall be no sittings in banc on any of such intervening days.

For continuance and determination of actions, indictments, &c. which may have been depending in any of the courts abolished by the recited act;

IV. And whereas it is expedient to provide for the continuance and determination of all such real actions, indictments, and informations for criminal offences, and informations in the nature of quo warranto, as may have been depending in any of the courts abolished by the said act; be it therefore enacted, That all indictments and informations for criminal offences, and proceedings had thereon, depending in any of the said courts, shall, at the next general assize and oyer and terminer to be holden in and for the county in the court whereof the same may be depending, be, by the late prothonotary of the same court, or other officer or person having the custody thereof, delivered to the clerk of

assize of the same county, and shall be proceeded with and heard and determined in the same manner as if the same had been commenced at an assizes or oyer and terminer holden in the same county by or before any judges of assize or oyer and terminer in and for such county; and that all writs of right and other real actions depending in any of the said courts, and all pleas and proceedings thereon, shall, at the request either of the demandant or tenant, be forthwith transmitted by such prothonotary, or other officer or person having the custody thereof, into the office of the prothonotaries of his Majesty's court of common pleas, and shall be proceeded with and heard and determined in the said court of common pleas in the same manner as if the same actions had been commenced in that court; and that all informations in the nature of quo warranto, and pleas and proceedings thereon, depending in any of the said abolished courts, shall, at the request either of the relator or defendant, be transmitted by such prothonotary, or other officer or person having the custody thereof, into the crown office of his Majesty's court of king's bench, and be proceeded with and heard and determined in the said court of king's bench as if the same had been commenced in that court; and every such delivery and transmission shall be made, certified, and signed, without fee or reward, by the officer or person delivering or transmitting the same.

No. IV.
1 W. 4, c. 3.
as also of
writs of right.

[By Section V., recoveries of lands might be suffered in the courts of the mayor of Chester, as heretofore; and fines levied on writs issued from the court of Chancery; and by Section VI., such fines might be reversed upon writ of error. Recoveries and fines are now however abolished. See *ante*, Part II., Class 10.]

[No. V.] 1 & 2 W. IV. c. 31.—An Act to improve the Administration of Justice in Ireland. [5th October 1831.]

WHEREAS by an act passed in the first year of the reign of his present Majesty, intituled *An Act for the more effectual Administration of Justice in England and Wales*, and also by an act passed in the last session of parliament, intituled *An Act to amend an Act of the last Session, for the better Administration of Justice, so far as relates to the Essoign and General Return Days of each Term, and to substitute other Provisions in lieu thereof, and to declare the Law with regard to the Duration of the Terms in certain Cases*, certain specific days are fixed for the commencement and termination of each of the law terms respectively in that part of the united kingdom called England, and other regulations are made for the purpose of facilitating proceedings in certain actions; and it is expedient that similar provisions should be made with respect to Ireland; be it therefore enacted, &c., That in the year of our Lord one thousand eight hundred and thirty-two, and afterwards, Hilary term shall begin on the eleventh and end on the thirty-first day of January; Easter term shall begin on the fifteenth day of April and end on the eighth day of May; Trinity term shall begin on the twenty-second day of May and end on the twelfth day of June; and Michaelmas term shall begin on the second and end on the twenty-fifth day of November; and that in case any day heretofore mentioned for the commencement or the end of any term shall happen to fall on a Sunday, then the Monday next after such day shall be deemed and taken to be the first or last day of term respectively; provided that if the whole or any number of the days intervening between the Thursday before and the Wednesday next after Easter day shall fall within Easter term, such days shall be taken to be a part of such term, but there shall not be any sitting in banc on any of such intervening days, and the term shall in such case be prolonged and continue for such number of days of business as shall be equal to the number of intervening days before mentioned, exclusive of Easter day, and the commencement of the ensuing Trinity

1 W. 4, c. 70.
1 W. 4, c. 3.

Alteration of
terms.

No. V.
1 & 2 W. 4,
c. 31.

When writs to
be returnable.

Limitation of
time for nisi
prius sittings.

Judgments to
be pronounced
in all trials for
felonies upon
record during
the sittings,
save as herein
excepted.

Judges may
make rules re-
lative to the
practice of all
the courts.

Justification of
bail before
judges in chambers.

term shall in such case be postponed, and its continuance prolonged for an equal number of days of business.

II. That all writs now usually returnable before any of his Majesty's courts of king's bench, common pleas, or exchequer in Ireland respectively on general return days, that shall be made returnable after the first day of January one thousand eight hundred and thirty-two, may be made returnable on the third day exclusive before the commencement of each term, or on any day, not being Sunday, between that day and the third day exclusive before the last day of term; and the day for appearance shall as heretofore be the third day after such return exclusive of the day of the return, or in case such third day shall fall on a Sunday, then on the fourth day after such return exclusive of such day of return.

III. That when the alteration of the terms herein-before mentioned shall take effect, not more than twenty-four days, exclusive of Sundays, after any Hilary, Trinity, and Michaelmas term, nor more than six days, exclusive of Sundays, after any Easter term, to be reckoned consecutively immediately after such terms, shall be appropriated to sittings in Dublin for the trial of issues of fact arising in any of his Majesty's courts of king's bench, common pleas, or exchequer; provided that if any trial at bar shall be directed by any of the said courts, it shall be competent to the judges of such court to appoint such day or days for the trial thereof as they shall think fit; and the time so appointed, if in vacation, shall for the purpose of such trial be deemed and taken to be a part of the preceding term: Provided also, That a day or days may be specially appointed at any time, not being within such twenty-four days or six days respectively, for the trial of any cause at nisi prius, with the consent of the parties thereto, their counsel or attornies.

IV. That upon all trials for felonies or misdemeanors upon any record of the court of king's bench judgment may be pronounced during the sittings or assizes by the judge before whom the verdict shall be taken, as well upon any person who shall have suffered judgment by default or confession upon the same record, as upon any person who shall be tried and convicted, whether any such person respectively be present or not in court, excepting only where the prosecution shall be by information filed by leave of the court of king's bench, or such cases of information filed by his Majesty's attorney general wherein the attorney general shall pray that the judgment may be postponed; and the judgment so pronounced shall be indorsed upon the record of nisi prius, and afterwards entered upon the record in court, and shall be of the same force and effect as a judgment of the court, unless the court shall within six days after the commencement of the ensuing term grant a rule to show cause why a new trial should not be had or the judgment amended; and it shall be lawful for the judge before whom the trial shall be had, either to issue an immediate order or warrant for committing the defendant in execution, or to respite the execution of the judgment, upon such terms as he shall think fit, until the sixth day of the ensuing term, and in case imprisonment shall be part of the sentence, to order the period of imprisonment to commence on the day on which the party shall be actually taken to and confined in prison.

V. That in all cases relating to the practice of any of the courts of king's bench, common pleas, or exchequer, in matters over which the said courts have a common jurisdiction, or of or relating to the practice of the court of error, it shall be lawful for the judges of the said courts jointly, or any nine or more of them, including the chief of each court, to make general rules and orders for regulating the proceedings of all the said courts, which said rules and orders so made shall be observed in all of the said courts; and no general rule or order respecting such matters shall be made in any manner except as aforesaid.

VI. That bail may be justified before a judge in chambers, or in some other convenient place to be by him appointed, as well in

term as in vacation, and whether the defendant is actually in custody or not.

No. V.
1 & 2 W. 4,
c. 31.

VII. That a defendant who shall have been held to bail upon any mesne process issued out of any of his Majesty's superior courts of record may be rendered in discharge of his bail, either to the prison of the court out of which such process issued, according to the practice of such court, or to the common gaol of the county in which he was so arrested; and the render to the county gaol shall be effectual in the manner following; (that is to say,) the defendant or his bail, or one of them, shall for the purpose of such render obtain an order of a judge of one of his Majesty's superior courts of Dublin, and shall lodge such order with the gaoler of such county gaol, and a notice in writing of the lodgment of such order, and of the defendant's being actually in custody of such gaoler by virtue of such order, signed by the defendant or the bail, or either of them, or by the attorney or agent of any or either of them, shall be delivered to the plaintiff's attorney or agent; and the sheriff or other person responsible for the custody of debtors in such county gaol shall on such render so perfected be duly charged with the custody of such defendant, and the said bail shall be thereupon wholly exonerated from liability as such.

Render in discharge of bail, defendant not being in custody.

VIII. That a defendant who shall hereafter be in custody of the gaoler of the gaol of any county, or county of a city, or county of a town, by virtue of any proceeding out of any of his Majesty's superior courts of record, may be rendered in discharge of his bail in any other action depending in any of the said courts in the manner herein-before provided for a render in discharge of bail; and the keeper of such gaol, or the sheriff or other person responsible for the custody of debtors as aforesaid, shall on such render be duly charged with the custody of such defendant, and the said bail shall be thereupon wholly exonerated from liability as such.

Render in discharge of bail, where defendant is in custody.

IX. That in the year of our Lord one thousand eight hundred and thirty-two, and afterwards, the general or quarter sessions of the peace in and for every county (save and except the county of Cork) shall be held at the following times; (that is to say,) the Easter sessions on any of the fourteen days next after the twenty-fifth day of March; the summer sessions on any day between the fourth day and the twelfth day next after the last day of Trinity term, both days inclusive; the October sessions on any of the fourteen days next after the eighth day of October; and the Hilary sessions on any of the fourteen days next after the twenty-sixth day of December; and that all acts, matters, and things done, performed, and transacted at the times appointed by this act for the holding of the general or quarter sessions of the peace shall be as valid and binding to all intents and purposes as if the same had been done, performed, and transacted at general quarter sessions of the peace holden at the times by law limited for the holding thereof before the passing of this act.

Times of holding quarter sessions.

X. That an act passed in the first and second years of his late Majesty's reign, intituled *An Act to regulate the Times for holding the General Sessions of the Peace in the several Counties in Ireland*, shall be and the same is hereby repealed.

Repeal of 1 & 2 G. 4, c. 62.

XI. That it shall and may be lawful for the chairman of the county of Dublin, and the assistant barrister in each county (except the county of Cork), at the general or quarter sessions to be held in such county next before each Hilary term, to fix and appoint the times for holding the next four sessions, of which times due notice shall be posted by the clerk of the peace, as now by law required to be done, on the first day of February in each year, and also six weeks before the day of holding each sessions.

Future sessions to be appointed at the Hilary sessions in 1832, and every subsequent year.

XII. And whereas landlords to whom a right of entry into or upon any lands, tenements, or hereditaments may accrue during or immediately after Hilary and Trinity terms respectively, are at present unable to prosecute ejectments against their tenants so as to try the same at

Landlords to recover possession of lands, &c. after notice of ejectment.

No. V.
1 & 2 W. 4,
c. 31.

the assizes immediately ensuing, whereby much delay is occasioned in the recovery of the possession of lands and tenements wrongfully withheld by tenants against their landlords; be it therefore enacted, That in all actions of ejectment hereafter to be brought in any of his Majesty's courts at Dublin, by any landlord against his tenant, or against any person claiming through or under such tenant, for the recovery of any lands, tenements, or hereditaments, where the tenancy shall expire or the right of entry into or upon such lands, tenements, or hereditaments shall accrue to such landlord in or after Hilary or Trinity terms respectively, it shall be lawful for the lessor of the plaintiff in any such action, at any time within ten days after such tenancy shall expire or right of entry accrue as aforesaid, to serve a declaration in ejectment, entitled of the day next after the day of the demise in such declaration, whether the same shall be in term or in vacation, with a notice thereunto subjoined requiring the tenant or tenants in possession to appear and plead thereto within ten days in the court in which such action may be brought; and proceedings shall be had on such declaration, and rules to plead entered and given in such and the same manner, as nearly as may be, as if such declaration had been duly served before the preceding term: Provided always, That no judgment shall be signed against the casual ejector until default of appearance and plea within such ten days, and that at least six clear days notice of trial shall be given to the defendant before the commission day of the assizes at which such ejectment is intended to be tried; provided also, that any defendant in such action may at any time before the trial thereof apply to a judge of either of his Majesty's superior courts, by summons in the usual way, for time to plead, or for staying or setting aside the proceedings, or for postponing the trial until the next assizes; and that it shall be lawful for the judge, in his discretion, to make such order in the said cause as to him shall seem expedient.

Declaration to
be entitled
specially.

XIII. That in making up the record of the proceedings of any such declaration in ejectment it shall be lawful to entitle such declaration specially of the day next after or any other day after the day of the demise therein, whether such day shall be in term or in vacation; and no judgment thereupon shall be avoided or reversed only of such special title.

Writs of pos-
session may
issue on judges'
certificate, &c.

XIV. That in all cases of trials of ejectment at nisi prius, when a verdict shall be given for the plaintiff, or the plaintiff shall be nonsuited for want of the defendant's appearance to confess lease, entry or ouster, and where no bill of exception or written objection signed by the defendant's counsel, or no certificate of such counsel that the defendant has a good defence in equity, shall have been tendered to the judge before whom the cause shall be tried, it shall be lawful for such judge to certify his opinion on the back of the record that a writ of possession ought to issue immediately; and upon such certificate a writ of possession may be issued forthwith, and the costs may be taxed, and judgment signed and executed afterwards at the usual time, as if no such writ had issued: Provided always, That such writ, instead of reciting a recovery by judgment in the form now in use, shall recite shortly that the cause came on for trial at nisi prius at such a time and place and before such a judge (naming the time, place, and judge,) and that thereupon the said judge certified his opinion that a writ of possession ought to issue immediately.

Writs of inquiry
returnable on
any day named
in writ.

XV. That any writ of inquiry of damages to be issued in or by any of the said courts, by whatever form of process the action may have been commenced, may be made returnable and be returned on any day certain, in term or vacation, to be named in such writ, and such writ shall be as valid and effectual as if the same had been returnable according to the course of the common law, and thereupon at the return thereof a rule for judgment may be given, costs taxed, final judgment signed, and execution issued forthwith, unless the sheriff or other officer before whom the same may be executed shall certify under his hand upon such

writ that judgment ought not to be signed until the defendant shall have had an opportunity to apply to the court to set aside the execution of such writ, or one of the judges of the said courts shall think fit to order the judgment to be stayed until a day to be named in such order: Provided always, that in case the signing of judgment on such writ shall be postponed by reason of such certificate or order, or by the choice of the plaintiff, or otherwise, and judgment shall afterwards be signed thereon, such judgment shall be entered of record as of the day of the return of such writ, unless the court shall otherwise direct; and provided always, that notice of the holding of such inquiry shall have been given to the defendant, or if the defendant shall have appeared by attorney, to his attorney in said cause, eight days at least before the execution of such writ of inquiry.

No. V.
1 & 2 W. 4,
c. 31.

XVI. That in all actions brought in any of the said courts, by whatever form of process the same may be commenced, it shall be lawful for the judge before whom any issue joined in such action shall be to be tried, in case the plaintiff or demandant therein shall become nonsuit, or a verdict shall be given for the plaintiff or demandant, defendant or tenant, and when no exception or legal objection in writing, and signed by counsel, shall be taken to the opinion of such judge, to certify under his hand on the back of the record, at any time before the end of the sittings or assizes, that in his opinion execution ought to issue in such action forthwith, or at some day to be named in such certificate, and subject, or not, to any condition or qualification, and in case of a verdict for the plaintiff, then either for the whole or for any part of the sum found by such verdict; in all which cases a rule for judgment may be given, costs taxed, and judgment signed forthwith, and execution may be issued forthwith or afterwards, according to the terms of such certificate, on any day in vacation or term; and the postea, with such certificate as a part thereof, shall and may be entered of record as of the day on which the judgment shall be signed, although the writ of distringas juratores, or habeas corpora juratorum, may not be returnable until after such day: Provided always, that it shall be lawful for the party entitled to such judgment to postpone the signing thereof.

On certificate of judge, after verdict or nonsuit, judgment and execution may be entered forthwith.

XVII. That every judgment to be signed by virtue of this act may be entered and recorded as the judgment of the court wherein the action shall be depending, although the court may not be sitting on the day of the signing thereof; and every execution issued by virtue of this act shall and may bear teste on the day of issuing thereof; and such judgment and execution shall be as valid and effectual as if the same had been signed and recorded and issued according to the course of the common law; Provided always, that notwithstanding any judgment signed or recorded or execution issued by virtue of this act, it shall be lawful for the court in which the action shall have been brought to order such judgment to be vacated and execution to be stayed or set aside, and to enter an arrest of judgment, or grant a new trial or new writ of inquiry, as justice may appear to require; and thereupon the party affected by such writ of execution shall be restored to all that he may have lost thereby, in such manner as upon the reversal of a judgment by writ of error, or otherwise, as the court may think fit to direct.

Judgment so signed may be recorded as the judgment of the court;

but the court may order it to be vacated.

XVIII. Provided always, That no taxing officer of any of the said courts shall, for the purpose of taxing costs on any judgment to be signed by virtue of this act, be compelled to attend at any time between the last day of August and the twenty-first day of October in any year.

Attendance of taxing officer.

XIX. That so much of an act passed in the first and second years of the reign of his late Majesty king George the fourth, intituled *An Act for the Relief of Insolvent Debtors in Ireland*, as enacts that no prisoner against whom any commission of bankrupt shall have issued and shall remain in force, and who shall not have obtained a certificate of his or her conformity to the several statutes concerning bankrupts under such commission, shall be entitled to be discharged by virtue of that act from

Repeal of 1 & 2 G. 4, c. 59, s. 50, as to the time for discharge of uncertificated bankrupts.

No. V.
1 & 2 W. 4,
c. 31.

Persons who have been declared bankrupt and not obtained their certificates shall not be entitled to the benefit of this act within three years, except in certain cases.

Discharge may extend to process for contempt in nonpayment of money, and to costs incurred by creditor.

Discharge of insolvent where process of contempt is for performance or nonperformance of an act.

Party aggrieved by any decree of the

any debt for which such prisoner shall be detained in custody, and which might have been proved under such commission, unless such prisoner shall have been detained in prison for the space of three years before the time when such prisoner shall apply for his or her discharge under that act, shall be and the same is hereby repealed.

XX. That no person petitioning the court for relief of insolvent debtors for relief under any act relating to insolvent debtors in Ireland, who shall have been duly declared bankrupt before the commencement of his or her imprisonment under any commission remaining in force, and shall not have obtained his or her certificate under such commission, shall be entitled to the benefit of any such act within the space of three years after such declaration of bankruptcy, unless three fourths in number and value of the creditors against whom such person shall seek to be discharged by virtue of such act or acts shall signify their assent to such discharge, or it shall be made to appear to the satisfaction of such court, or of a commissioner thereof on his circuit, that such person has since such declaration of bankruptcy endeavoured by industry and frugality to pay all just demands upon him or her, and has incurred no unnecessary expence, and that the debts which such person has incurred subsequent to such declaration of bankruptcy have been necessarily incurred for the maintenance of such person or his or her family, or that the insolvency of such person has arisen from misfortune, or from inability to acquire subsistence for himself or herself, and his or her family.

XXI. That the discharge of any prisoner under the authority of any act which now is or may hereafter be in force for the relief of insolvent debtors shall and may extend to all process issuing from any court of law or equity for any contempt of such court for nonpayment of money or of costs, charges, or expences in any such court; and that in such case such discharge shall be deemed to extend to all costs which such prisoner shall be liable to pay in consequence or by reason of such contempt, or on purging the same; and that every such discharge as to any debt or damages of any creditor of any such prisoner shall be deemed to extend also to all costs incurred by such creditor before the filing of such prisoner's schedule in any action or suit brought by such creditor against such prisoner for the recovery of the same; and that all persons as to whose demands for any such costs, money, or expences any such prisoner shall be so discharged, shall be deemed and taken to be creditors of such prisoner in respect thereof, and entitled to the benefits of all the provisions made for creditors by any act now in force or hereafter to be in force relating to insolvent debtors; subject nevertheless to such ascertaining of the amount of the said demands as may be had by taxation or otherwise, and to such examination thereof as may be by any such act provided in respect to claims to a dividend upon the estate and effects of such insolvent.

XXII. That in all cases of process of contempt, whether for the performance or nonperformance of any act or otherwise, where any insolvent shall have cleared his contempt except so far as regards the payment of costs, or where it has become unnecessary for such insolvent to do the act for the nonperformance of which he shall have been committed or attached, the court from which such process shall have issued, or under the order of which the prisoner shall have been committed or attached, shall, upon the application of such prisoner, discharge him from the same, except as to the costs thereof, for which he shall remain in custody until discharged; and such costs shall be deemed to be within the provisions of the acts for the relief of insolvent debtors; and such prisoner may be discharged therefrom, and from the process of contempt, as if the commitment or attachment had originally been for nonpayment of money or costs.

XXIII. And whereas it is expedient that in certain cases an appeal should be allowed from the decrees of the court of conscience of the city of Dublin; be it therefore enacted, That where any decree or order of

said court of conscience shall be obtained in any suit, for any demand, fee, wages, or sum of money claimed by reason of any office, station, place, or employment in the gift or nomination of the corporation of the city of Dublin or any guild thereof, or of any officer elected or appointed by the said corporation or any guild thereof, that in every such case the party aggrieved by such decree or order shall be entitled to appeal therefrom to the chief or any judge of any of his Majesty's supreme courts of law in Ireland sitting at nisi prius at the sittings of the city of Dublin next after such decree or orders made; and the said appeal shall be made and proceeded on, and the judge to whom such appeal shall be made shall proceed with respect thereto, in the same manner as appeals from the manor courts in the city of Dublin are now made and proceeded on: Provided always, that nothing in this act contained shall give of be construed to give to such court of conscience any jurisdiction whatsoever in any case which such court did not possess before the passing of this act.

No. V.
1 & 2 W. 4,
c. 31.

court of conscience in Dublin may appeal to any judge of the supreme courts.

[No. VI.] 1 & 2 W. IV. c. XXXV.—An Act to explain and amend an Act for regulating the Receipt and future Appropriation of Fees and Emoluments receivable by Officers of the Superior Courts of Common Law.

[15th October 1831.]

WHEREAS by an act passed in the eleventh year of the reign of king

George the fourth and first year of the reign of his present Majesty, intituled *An Act for regulating the Receipt and future Appropriation of Fees and Emoluments receivable by Officers of the Superior Courts of Common Law*, persons holding certain offices and employments are required to render to the commissioners to be appointed by virtue of the said act an account of the lawful fees and emoluments which have become due in respect of such offices and employments during the periods therein specified; and such commissioners are thereby authorized to inquire into and examine as well the legality as the amount of the fees and emoluments contained in such accounts, and are directed to ascertain the gross and net annual value, according to an average of ten years, of the lawful fees and emoluments of such offices and employments as aforesaid: And whereas it is difficult in many cases to find any certain rule by which the legality of such fees and emoluments can be strictly ascertained; and it is expedient that the compensation directed by the said act should be made upon equitable principles: Be it therefore enacted and declared, &c., That all fees and emoluments received and enjoyed in respect of the said offices or employments which the said commissioners shall deem to be reasonable, and which shall have been received for fifty years before the twenty-fourth day of May one thousand eight hundred and thirty-one, or which shall have been uniformly received in respect of any matter or business which shall have first arisen within the said period of fifty years, by authority of parliament or other legal authority, shall be deemed and taken to be legal fees and emoluments within the true intent and meaning of the said act.

1 W. 4, c. 58.

Certain fees to be deemed legal fees.

II. That if such commissioners shall entertain any doubt as to the propriety or reasonableness of any such fees, or any matter connected therewith, it shall be lawful for them to consult thereon the court or judge by whose officer the same may have been received, or any one or more of the judges of such court; and such court and judges shall and are hereby required to give their or his advice and opinion as early as the same can be reasonably done; and that the advice so given, and the question to which it is in answer, shall be in writing.

If commissioners are in doubt as to the legality of any fees they may consult the court or judge.

III. That the persons holding the offices or situations named in the schedule to this act annexed shall be deemed and taken to be within the true intent and meaning of the said act, and within the authority to be deemed

Persons named in the schedule to be deemed within the meaning of this act.

No. VI.
1 & 2 W. 4,
c. 35.

Certain persons who have held offices for years, or during pleasure, to receive compensation. 1 W. 4, c. 70, s. 25.

and jurisdiction of the said commissioners, who shall inquire into and report upon the value of the said offices or situations.

IV. And whereas by another act, passed in the same year, intituled *An Act for the better Administration of Justice in England and Wales*, persons holding freehold offices were alone empowered to receive compensation from commissioners to be appointed by virtue of that act, albeit the holders of such offices for years or during pleasure are in justice entitled thereto; be it further enacted, That all persons who before the first day of January in the year of our Lord one thousand eight hundred and twenty-eight held offices or situations in any of the courts of great session in the county of Chester or principality of Wales, by virtue of any appointment theretofore lawfully made, for term of years or during pleasure, shall be deemed and taken to be within the true intent and meaning of the said act as above mentioned, and within the jurisdiction and authority of the commissioners appointed by virtue of the same act.

SCHEDULE.

Master or secondary of the courts of king's bench at Westminster; signer of the writs in the same court; chaplain of the king's bench prison; chief usher of the said court; under ushers and criers of the same court; keeper of Westminster hall; warden of the Fleet prison; officers of the revenue side of the courts of exchequer at Westminster; officers acting under commissioners of assize at nisi prius, oyer and terminer and general gaol delivery in England; who held such office on the twenty-fourth day of May in the year of our Lord one thousand eight hundred and thirty.

[No. VII.] 2 W. IV. c. 5.—An Act to provide for carrying on the Business of the Court of Session in Scotland when interrupted by the Death or necessary Absence of any of the Judges thereof.

[13th February 1832.]

WHEREAS by the laws now in force for regulating the proceedings in the court of session in Scotland no sufficient provision is made for carrying on the business of the said court in the event of the death, sickness, or necessary absence of any of the lords ordinary in the outer house, or in the event of the judges in either division of the inner house being reduced to less than a quorum by such casualties; whereby great delays and inconveniences have been suffered, and it is expedient that these should be remedied: Be it therefore enacted, &c., That from and after the passing of this act it shall be competent to the judges of the court of session, or a quorum thereof, in the case of the death, sickness, or other necessary absence of any of the lords ordinary of either division of the court, or of the junior lord ordinary acting as ordinary on the bills, to make such regulations by act of sederunt as may be necessary for carrying on the business of the outer house, and that either by appointing one of the judges of either division of the inner house to officiate in the outer house or bill chamber during such absence of any of the above lords ordinary, or by appointing a lord ordinary of one division to act in such case *pro tempore* as an ordinary of the other division.

Judges of the court of session empowered to make regulations for carrying on the business of the said court in certain cases.

When the judges of the inner house are reduced below a quorum,

II. That in case of death, sickness, declinature, or necessary absence of any of the judges of the inner house of either division, the number of judges in such division shall be reduced to less than a quorum, it shall be in the power of the division so reduced in number, and they may call in one of the lords ordinary to assist.

are hereby authorized and required, to call in one of the lords ordinary of the same or of the other division to sit and vote in the inner house until the number of judges in such division be again increased to a quorum.

No. VII.
2 W. 4, c. 5.

[No. VIII.] 2 W. IV. c. 32.—An Act for the Erection of a Nisi Prius Court House in Dublin.

[23rd May 1832.]

[No. IX.] 2 W. IV. c. 48.—An Act to regulate the Office of Clerk of the Crown in the Court of King's Bench in Ireland.

[23rd June 1832.]

[No. X.] 2 W. IV. c. 54.—An Act for making Provision for the Dispatch of the Business now done by the Court of Exchequer in Scotland.

[23rd June 1832.]

WHEREAS by an act passed in the sixth year of the reign of queen Anne, intituled *An Act for settling and establishing a Court of Exchequer in the North Part of Great Britain called Scotland*, it was enacted, that from and after the fifth day of May one thousand seven hundred and eight a court of exchequer in Scotland should be and by authority of that act was thereby erected, constituted, and established in and for Scotland, and that such court should be and was thereby enacted to be a court of record, revenue, and judicature for and within Scotland, as therein mentioned: And whereas by an act passed in the forty-eight year of his Majesty king George the third, intituled *An Act for enabling His Majesty to grant Annuities to the Judges of the Court of Session, Justiciary, and Exchequer of Scotland, upon the Resignation of their Offices*, it was enacted, that it should be lawful for his Majesty to grant unto any person who should have entered the office of chief baron of the said court of exchequer in Scotland, or of a baron of the same court, and who should have resigned any such office, an annuity or yearly sum of money not exceeding three fourth parts of the salary appertaining to such office at the time of the resignation thereof, and that every such annuity or yearly sum should commence from and after the period when the person to whom any such annuity or yearly sum should be granted as aforesaid should have resigned his office, and to continue from thenceforth for his natural life, payable out of the duty and revenues in Scotland, as therein mentioned; provided always, that no such annuity or yearly sum should be so granted to the said chief baron or barons of the said court unless he or they should have continued in one or more of the said offices for the space of fifteen years, or be afflicted by some permanent infirmity disabling him from the due execution of his office, which should be distinctly recited in the said grant: And whereas by an act passed in the first year of the reign of his present Majesty, intituled *An Act for uniting the Benefits of Jury Trials in Civil Causes with the ordinary Jurisdiction of the Court of Session, and for making certain other Alterations and Reductions in the Judicial Establishments in Scotland*, it was enacted, that as vacancies should occur in the office of the baron of the said court of Exchequer, the same should not be filled up until the number of such barons should be reduced so that the said court should consist of the lord chief baron and one baron only: And whereas, with a view to render the administration of justice in matters of revenue in Scotland less expensive, it is expedient that on the retirement or decease of the said lord chief baron of exchequer, or any of the

6 Anne, c. 53.

48 G. 3, c. 145.

1 W. 4, c. 69.

No. X.
2 W. 4, c. 54.

No successors to be appointed to the present barons.

Discharge of duties of the court upon retirement or death of the several barons.

After retirement or death of the last baron duties to be discharged by a judge of the court of session.

Power given to judge of the court of session to grant warrant for issuing commissions.

As to the annuities to be granted to the chief and other barons.

Salary to judge of the court of session to be appointed in place of the barons of exchequer.

other barons of the said court, no successors should be appointed to their respective offices, and that fit provisions should be made for the performance of the duties of their respective offices, and also for facilitating the retirement of the said lord chief baron and other barons of the said court: Be it therefore enacted, &c., That from and after the passing of this act, upon the retirement or decease of the present lord chief baron or any of the present barons of the said court, no successors shall be appointed to their respective offices.

II. That from and after the retirement or decease of any of the existing judges of the said court of exchequer all the judicial and other duties now discharged by the said court, or by any of the judges thereof, shall be discharged by the remaining judges of that court, or the last remaining judge thereof, as the case may be.

III. That from and after the retirement or decease of the last remaining baron or chief baron, all the duties and powers which are by this act directed to be discharged and performed by and vested in such last remaining baron or chief baron shall be transferred to, discharged, and performed by and vested in such one of the judges of the court of session (such judge not being one of the judges of the court of justice) as his Majesty shall from time to time be pleased to name; and such judge shall have full power and authority to try all such suits and causes in the said court of exchequer, either in term or out of term, as he shall appoint: Provided nevertheless, that nothing in this act contained shall abridge or alter the jurisdiction or powers of the said court of exchequer.

IV. That if at any time after the passing of this act the number of the barons of the said court shall be reduced, or after the retirement or decease of the last remaining baron as herein-before mentioned, then and in such case it shall and may be lawful, during the indisposition or absence of the baron and barons of such court to which the same shall be reduced, or of the judge of the court of session to be appointed to try the suits and causes in the said court as herein-before mentioned, to and for the judge of the court of session officiating as lord ordinary upon the bills for the time being to grant warrant for the issuing of all commissions to find debts, and fiats for the issuing of all writs and extents and other process issuable out of the said court of exchequer, and also to revise such signatures for the granting of crown charters, as may be of an urgent nature and require dispatch, in like manner and to as full force and effect as the lord chief baron or other barons of the said court are now by law authorized to do; any law, practice, or custom to the contrary hereof in anywise notwithstanding.

V. That from and after the the passing of this act the said provision in the said recited act of the forty-eighth year of the reign of his late Majesty king George the third contained, making fifteen years official service or some permanent infirmity a necessary condition to the granting the annuities or yearly sums of money therein mentioned, shall not extend to the present lord chief baron of the said court or to the other present barons of the said court who shall resign their offices: Provided nevertheless, That the annuity or yearly sum of money to be granted to the said lord chief baron by virtue of the said act or of this act shall not exceed the sum of two thousand pounds per annum; and that the annuities or yearly sum of money to be granted to each of the other barons who shall retire shall not exceed one thousand five hundred pounds per annum.

VI. That in consideration of the services to be performed by the judge of the court of session to whom the duties and powers of the present lord chief baron and barons of exchequer are to be transferred, it shall be lawful for his Majesty to grant warrants for paying to the said judge a salary or yearly sum of money not exceeding the sum of six hundred pounds; which sum of money shall be payable out of the same fund from which the salaries of the present lord chief baron and other barons are now payable.

[No. XI.] 2 & 3 W. IV. c. 110.—An Act for the better Regulation of the Duties to be performed by the Officers on the Plea or Common Law Side of the Court of Exchequer.

[15th August 1832.]

WHEREAS an act was passed in the first year of the reign of his present Majesty, intituled *An Act for the more effectual Administration of Justice in England and Wales*; and by the said act certain changes were made on the plea or common law side of the court of exchequer: I W. 4, c. 70.

And whereas William Stewart Rose esquire now is clerk of the pleas in the said court, and is lawfully entitled to execute the said office, by himself or his sufficient deputy, during the term of his natural life, and Thomas Dax esquire (commonly called the master) now is deputy clerk of the pleas, and Stephen Richards, Kenrick Collett, Edmund Walker, and George Chilton, esquires, are the four sworn clerks in the said court; and the said Thomas Dax, Stephen Richards, Kenrick Collett, Edmund Walker, and George Chilton are the five principal acting officers of the said court: And whereas the business in the offices on the plea or common law side of the said court has greatly increased, and the same since the passing of the said act has been conducted and performed by the said deputy clerk of the pleas and the said four sworn clerks, but without any regulation as to the respective duties to be performed by each; and many of the duties of the master have from necessity been performed by the sworn clerks, but without any obligation upon them to perform such duties; and it is expedient to apportion such business among the said officers, and to fix and determine the duties to be performed by them respectively: Be it therefore enacted, &c., That from and after the commencement of this act there shall continue to be five principal officers on the plea side of the said court (exclusive of the said William Stewart Rose esquire, the said clerk of the pleas), and no more; and that the said Thomas Dax, Stephen Richards, Kenrick Collett, Edmund Walker, and George Chilton, esquires, who have so conducted the business on the plea side of the said court, and their successors, shall, from and after the passing of this act, perform the same as follows; that is to say, the said Thomas Dax, Kenrick Collett, and Edmund Walker shall perform the duties of master and prothonotary, the said Stephen Richards the duties of clerk of the rules, and the said George Chilton the duties of filazer of the said court, and the said officers shall be styled and designated accordingly; and if any doubt or difference shall at any time arise respecting the duties to be performed by the said respective officers, the same shall be settled and determined by the lord chief baron and the other barons of the said court for the time being.

There shall be five principal officers on the plea side of the court, exclusive of the clerk of the pleas.

Their offices.

II. That such officers and their successors shall hold their said offices during good behaviour, and shall and may, in and for the discharge of the duties of their respective offices, have such assistants and clerks as the lord chief baron and the other barons of the said court for the time being shall determine to be necessary and proper; and that such assistants and clerks shall and may be appointed by such officers respectively, subject to the approbation of the lord chief baron for the time being; and that each of the said officers shall at all times be responsible for the conduct of such of the said assistants and clerks whom he shall appoint.

Offices to be held during good behaviour, with such assistants as the court may deem necessary.

III. That from and after the second day of Easter term one thousand eight hundred and thirty-three, no person holding any of the said offices, or being an assistant or clerk to any of the said offices, shall act as an attorney or solicitor, or agent of an attorney or solicitor, in any court of law or equity in the united kingdom of Great Britain and Ireland, either separately or in partnership with any other, during such time as he shall hold such office or act as such assistant or clerk.

Persons holding any of the offices, or their assistants, not to act as attorneys or agents.

IV. That the office of clerk of the errors, now filled and executed by

Clerk of the errors.

No. XI.
2 & 3 W. 4,
c. 110.

Attendance
and hours of
business to be
as directed by
the court.

In case of sick-
ness, &c. leave
of absence may
be granted,
and, if neces-
sary, a deputy
appointed.

The lord chief
baron, in cer-
tain cases, may
fill up vacan-
cies until there
shall be an
effective offi-
cer.

Office of clerk
of the pleas not
to be again
filled up.

As to the
filling up of
vacancies in
the offices of
master and
prothonotary;

and of the
clerk of the
rules and
filazer.

Salaries of the
said five officers
to be fixed by
the court, and
paid out of the
fees.

Surplus of fees
to be accounted
yearly.

the said Thomas Dax, shall continue to be filled and executed by him as long as he shall be a master or prothonotary of the said court, and no longer, and the same shall always hereafter be filled by the person who shall be the senior master or prothonotary of the court for the time being.

V. That the said officers, and their assistants and clerks, shall give their attendance in court or elsewhere, and shall conduct the business in their several departments, at such hours, and in every respect in such manner, as the said lord chief baron and other barons of the said court shall from time to time order and direct.

VI. Provided always, That if either of the said officers shall, from sickness or other reasonable cause, have occasion to be absent from the business of his said office, then and in every such case it shall and may be lawful for such officer, by and with the permission of the lord chief baron for the time being, or, in his absence, of some other baron of the said court, to give leave of absence, by his order in writing, to such officer, and, if necessary, to appoint a deputy in his place and stead during such time as shall be expressed in such order; and the name of such deputy, and also the cause and time of such absence, shall be stated in such order; and such deputy may, if occasion shall require it, be changed by the said lord chief baron, or, in his absence, by some other baron of the said court; and every such deputy shall be paid by the principal for whom he shall so act as aforesaid, and as the said lord chief baron, or other baron of the said court, shall direct in such order.

VII. That if either of the said offices shall become vacant, or if any such officer shall be unable to act in his said office from sickness or any other cause, and shall be unable to appoint a deputy, then and in every such case it shall and may be lawful for the lord chief baron, by warrant under his hand and seal, to appoint a person to perform the duty of such officer until there shall be an effective officer to discharge the same; and such person so appointed shall, during the continuance of such deputation or appointment, have all and every the rights, emoluments, powers, and authorities, and shall be subject to the same liabilities, as such officer whose duty he shall so have been appointed to perform would have possessed or been liable to.

VIII. That when a vacancy shall occur in the said office of clerk of the pleas, by the demise of the said William Stewart Rose esquire, or otherwise, the said office shall not again be filled up, but the same shall from thenceforth cease and determine.

IX. That if any vacancy shall occur in either of the said offices of master and prothonotary during the lifetime of the said William Stewart Rose, and while he shall hold the said office of clerk of the pleas as aforesaid, the said William Stewart Rose shall, as often as such vacancy shall happen, appoint a person to succeed to such office, subject to the approbation of the lord chief baron for the time being; and after the death of the said William Stewart Rose, or other determination of his said office, when any vacancy shall occur in either of the said offices of master and prothonotary, the lord chief baron of the said court for the time being shall appoint a fit and proper person to fill the same; and when, at any time after the passing of this act, any vacancy shall occur in the offices of clerk of the rules and filazer of the said court, the lord chief baron for the time being shall appoint a fit and proper person to fill such office.

X. That the said five officers shall receive, by way of salary, for performing the duties of their respective offices, such annual sum as the lord chief baron and the other barons of the said court, with the approbation of the lords commissioners of his Majesty's treasury, shall think proper, to commence and be computed and payable from the twelfth day of October one thousand eight hundred and thirty, the said salaries to be retained and paid out of the fees by law payable in respect of the duties performed by the officers of the common law side of the said court; and the surplus of such fees, after deducting the expences of

assistants and clerks, the amount of which shall be fixed and regulated by the said court, and the other necessary expences of the said office, shall be accounted for once every year, upon oath, before the lord chief baron and other barons of the said court, and the balance, if any, shall be paid over to the lords commissioners of his Majesty's treasury; and any sum which may be awarded to the said officers by the commissioners, or any or either of them, under the act passed in the first year of the reign of his present Majesty, intituled *An Act for regulating the Receipt and future Appropriation of Fees and Emoluments receivable by Officers of the Superior Courts of Common Law*, shall be taken into consideration in fixing and ascertaining their said respective salaries.

No. XI.
2 & 3 W. 4,
c. 110.

XI. That there shall be paid to the said William Stewart Rose such annual sum as the lord chief baron and other barons of the said court, with the approbation of the lords commissioners of his Majesty's treasury, shall think proper, out of the said fees, until the said commissioners under the said act of the first year of the reign of his present Majesty shall make their report upon the claim made by the said William Stewart Rose under the said last-mentioned act.

W. S. Rose, Esq. to receive an annual sum until commissioners make their report.

XII. Provided always, That no officer or other person named in or appointed by virtue of this act shall be entitled to have or claim any compensation whatever for or by reason or in consequence of any such office being regulated, or abolished by law or the orders of the said court, or otherwise.

Officers not entitled to compensation if offices abolished.

XIII. That this act, and every clause and matter therein contained, shall commence and have effect immediately from and after the passing of the same.

Commencement of act.

[No. XII.] 2 & 3 W. IV. c. 116.—An Act to provide for the Salaries of certain High and Judicial Officers, and of Payments heretofore made out of the Civil List Revenues.

[16th August 1832.]

WHEREAS in an act passed in the first year of the reign of his present Majesty, intituled *An Act for the Support of His Majesty's Household, and of the Honour and Dignity of the Crown of the United Kingdom of Great Britain and Ireland*, it is recited, that in consequence of his Majesty having been graciously pleased to signify to his faithful commons in parliament assembled, that his Majesty placed without reserve at their disposal his Majesty's interest in the hereditary revenues, and in those funds which may be derived from any droits of the crown or admiralty, from the West India duties, or from any casual revenues, either in his Majesty's foreign possessions or in the united kingdom; and that in surrendering his Majesty's interest in revenues which had in former settlements of the civil list been reserved to the crown, his Majesty rejoiced in the opportunity of evincing his Majesty's entire reliance on their dutiful attachment, and his Majesty's confidence that they would cheerfully provide all that might be necessary for the support of the civil government, and the honour and dignity of his Majesty's crown; his Majesty's most dutiful and loyal subjects, the commons of the united kingdom of Great Britain and Ireland in parliament assembled, with hearts full of the warmest duty and gratitude, declare their desire that provision should be made for the support of the civil government by charges upon the consolidated fund, and otherwise by other acts to be passed in the then session of parliament, and that a certain and competent revenue for defraying the expences of his Majesty's household, and supporting the honour and dignity of the crown of the united kingdom during his Majesty's life (whom God long preserve), might be settled upon his Majesty: And whereas by the said recited act the latter object was effected, but no act or acts have since

1 W. 4, c. 25.

No. XII.
2 & 3 W. 4;
c. 116.

Salaries to
judges.

passed for making the contemplated provision for the civil government charges previously borne upon the civil list revenues, upon the hereditary revenues of Scotland, and upon the four and half *per centum* duties, over and above the charges provided for by the said recited act; and, such charges have from time to time been provided for by occasional grants of parliament until they should be charged upon the consolidated fund, or otherwise provided for according to the spirit and meaning declared in the said recited act: And whereas it has been deemed expedient that many of the said charges should be granted from year to year upon estimates to be annually prepared for that purpose: And whereas it is now deemed expedient to carry into effect the intentions expressed in that act, by making provision for other of the said civil government charges out of the consolidated fund of the united kingdom of Great Britain and Ireland: Be it therefore enacted, &c. That it shall be lawful for his Majesty, his heirs and successors, to grant the several and respective annual salaries herein-after specified, from and after the fifth day of April one thousand eight hundred and thirty-two, to the judges of his Majesty's courts at Westminster and Dublin, herein-after enumerated; (that is to say,) to the chief justice of the court of king's bench at Westminster, ten thousand pounds; to the chief justice of the court of common pleas at Westminster, eight thousand pounds; to the chief baron of the court of exchequer at Westminster, seven thousand pounds; to each of the puisne justices of the courts of king's bench and common pleas and barons of the coif of the court of exchequer at Westminster, who may have been appointed before the sixteenth day of November one thousand eight hundred and twenty-eight, five thousand five hundred pounds; to each of the puisne justices and barons of the said courts who may have been appointed since the sixteenth day of November one thousand eight hundred and twenty-eight, and to those who may be hereafter appointed, five thousand pounds; to the cursitor baron of the exchequer at Westminster, during the continuance of the existing interest therein, two hundred and forty-three pounds; to the vice-chancellor of England, six thousand pounds; to the lord chancellor of Ireland, eight thousand pounds; to the chief justice of the court of king's bench in Dublin, five thousand and seventy-four pounds nine shillings and four-pence; to the chief justice of the court of common pleas in Dublin, four thousand six hundred and twelve pounds eighteen shillings and eight-pence; to the chief baron of the court of exchequer in Dublin, four thousand six hundred and twelve pounds eighteen shillings and eight-pence; to the second justice of the court of king's bench in Dublin, three thousand seven hundred and twenty-five pounds nineteen shillings and four-pence; to each of the other puisne justices of the courts of king's bench and common pleas and barons of the coif in the court of exchequer in Dublin, three thousand six hundred and eighty-eight pounds twelve shillings and four-pence; to the judge of the admiralty court in Ireland, five hundred pounds; and all such salaries shall be payable quarterly, and shall be charged and chargeable upon and paid out of the consolidated fund of the united kingdom of Great Britain and Ireland; and all such respective salaries shall be the full salaries of each of such judges, and shall be in lieu of all salaries heretofore payable to such judges out of the consolidated fund or civil list, or other fund whatsoever, under any act or acts of the parliament of Great Britain or Ireland or of the united kingdom, and of all fees or other emoluments which heretofore made part of the salaries of any of such judges respectively, save and except as to fees receivable by the present cursitor baron of the exchequer, who shall be allowed to continue to take and receive all fees legally demandable by him, during the continuance of his existing interest in the said office; any thing contained in any act or acts of the parliament of Great Britain or Ireland or of the united kingdom, or any law, usage, or custom, relating to any of the salaries of any of such judges respectively, to the contrary notwithstanding.

II. That all such fees and pecuniary profits as have heretofore been used and accustomed to be demanded and received by or for the use of any of the aforesaid judges (save and except the said cursitor baron), or of the lord chancellor of Ireland, shall continue to be demanded and received by the persons who have heretofore demanded and received the same, and shall be accounted for quarterly, and paid into the exchequer, and be carried to and make part of the said consolidated fund.

No. XII.
2 & 3 W. 4,
c. 116.

Fees, &c.
heretofore received by
exchequer.

III. That it shall be lawful for his Majesty, his heirs and successors, to grant to the lord lieutenant general and general governor of Ireland for the time being an annual salary of twenty thousand pounds, chargeable upon the said consolidated fund of the united kingdom of Great Britain and Ireland, to be paid and payable quarterly at the four most usual days of payment in the year, the first payment to commence and take effect from the fifth day of April one thousand eight hundred and thirty-two.

Salary to lord
lieutenant of
Ireland.

IV. That it shall be lawful for his Majesty, his heirs and successors, to charge upon the consolidated fund of the united kingdom of Great Britain and Ireland an annual sum of two hundred and three thousand five hundred and ten pounds, to defray the charge of the salaries and allowances of his Majesty's diplomatic servants employed at foreign courts, and of the pensions which have been granted or may hereafter be granted to persons having served his Majesty at foreign courts, the said charge to take effect and commence from the fifth day of April one thousand eight hundred and thirty-two.

Diplomatic
salaries and
pensions.

V. Provided always, That until the said sum of two hundred and three thousand five hundred and ten pounds shall be reduced to the sum of one hundred and eighty thousand pounds, it shall not be lawful for his Majesty, his heirs or successors, to grant in any one year a larger annual amount in pensions for diplomatic services than two thousand pounds in the whole; and when the actual charge shall be reduced to the sum of one hundred and eighty thousand pounds, it shall not be lawful for his Majesty, his heirs and successors, to charge upon the said consolidated fund for any one year a larger amount to defray the charges of diplomatic salaries, allowances, and pensions than one hundred and eighty thousand pounds.

Restriction on
amount of
grants of pen-
sions.

VI. That no new diplomatic pension which may hereafter be granted under the authority of this act shall exceed one thousand seven hundred pounds per annum to any one person for the first class, one thousand and three hundred pounds per annum to any one person for the second class, nine hundred pounds per annum to any one person for the third class, and seven hundred pounds per annum to any one person for the fourth class; and that such pensions shall only be so granted under the following regulations and restrictions; (that is to say),

Limitation of
diplomatic
pensions.

First, That no diplomatic pension whatever shall be granted to any person until the expiration of fifteen years from the date of his first commission, nor unless he shall have actually served ten years:

Second, That no person shall be qualified to receive a pension of the first class unless he shall have actually resided three years as ambassador at some foreign court:

Third, That no person shall be qualified to receive a pension of the second class who shall not have actually resided five years as an envoy extraordinary and minister plenipotentiary at some foreign court:

Fourth, That no person shall be qualified to receive a pension of the third class who shall not have actually resided five years as minister plenipotentiary or minister resident at some foreign court:

Fifth, That pensions in the remaining class shall not exceed seven hundred pounds per annum, under the same conditions as to time of residence.

No. XII.
2 & 3 W. 4,
c. 116.

Forfeiture or
abatement of
pension in certain cases.

Account of
pensions to be
laid before
parliament.

Providing for
the late civil
list pensions.

Such pensions
to be granted
only to those
persons who
were charged
on the civil list,
&c.

Salaries of
officers for-
merly paid out
of civil list.

Salaries, &c.
to be free of
all fees and
taxes.

The treasury
may by war-
rant direct the

VII. Provided always, That all diplomatic pensions shall be subject to forfeiture in case of refusal of the person holding the same to proceed to any mission of equal or higher rank than that in respect of which such pension may have been granted, and of suspension or abatement in any case in which the person holding the same may be appointed to any office of profit under the crown.

VIII. That an account of all payments which may be made for diplomatic salaries, allowances, and pensions shall be laid before both houses of parliament on or before the twenty-fifth day of March in every year.

IX. That it shall be lawful for his Majesty, his heirs and successors, to direct the payment of any sum or sums of money, not exceeding in the whole eighty-five thousand one hundred and twenty-nine pounds per annum, out of the consolidated fund of the united kingdom of Great Britain and Ireland, to defray the charge, during the pleasure of his Majesty, his heirs and successors, of those pensions which, prior to the accession of his Majesty, were charged upon the civil list payable in England and in Ireland, upon the hereditary revenues of Scotland, and the four and a half per centum duties, and for which no provision was made in the civil list granted to his Majesty by the act for the support of his Majesty's household, and for the honour and dignity of the crown; the said charge to commence and take effect from the fifth day of April one thousand eight hundred and thirty-two.

X. Provided always, That such pensions shall be granted only to or on behalf of those persons who were in the receipt and enjoyment of, or were beneficially interested in, a pension of corresponding amount upon the civil list in England or in Ireland, the hereditary revenues of Scotland, or the four and a half per centum duties, prior to the accession of his Majesty; and that such of the said pensions and of the salaries and allowances herein-after mentioned as have heretofore been paid out of the hereditary revenues of Scotland, and out of the four and a half per centum duties, shall, after his Majesty's life, (which God long preserve,) and in the event of his Majesty's heirs and successors resuming the rights of the crown in the said hereditary revenues of Scotland, and the four and a half per centum duties, and receiving the same, then cease to be a charge on the said consolidated fund.

XI. That it shall be lawful for his Majesty, his heirs and successors, to charge upon the consolidated fund of the united kingdom of Great Britain and Ireland any sum or sums of money, not exceeding in the whole twenty thousand three hundred and nine pounds per annum, to pay salaries and allowances which prior to the accession of his Majesty were chargeable on the civil list revenues in England and Ireland, and on the hereditary revenues in Scotland, and for which no provision has been made by this act for the support of his Majesty's household, and for the honour and dignity of the crown, the said charge to commence and take effect from the fifth day of April one thousand eight hundred and thirty-two.

XII. That the several salaries, allowances, and pensions granted or to be granted under the authority of this act shall be paid net, and free and clear of all taxes or charges, for or in respect of any land tax, or of any pension or other duty, rate, or charge whatever, and clear and discharged of all fees or payments whatever to which any such salaries, allowances, or pensions may have been heretofore, or may be by any act or acts of parliament, or law or laws, or any ancient usage or custom, subject or liable; and that all such salaries, allowances, and pensions shall be paid and payable quarterly at the four most usual days of payment in the year, together with a rateable proportion of the quarter current at the death or resignation of any of the persons in the receipt of such salaries, allowances, and pensions.

XIII. That it shall be lawful for the lord high treasurer, or the commissioners of the treasury of the united kingdom of Great Britain and the auditor of the exchequer to pass debentures for payment of the salaries, pensions, &c.

Ireland, for the time being, or any three or more of them, and they are hereby authorized and required, by warrant under their hands, to direct debentures to be made forth and passed by the proper officers at the receipt of his Majesty's exchequer, from time to time, for paying the said several salaries, pensions, or sums of money, in manner as aforesaid, and as the same shall from time to time become due and payable, according to the true intent and meaning of this act; which said warrants and debentures to be made forth and passed thereon respectively, shall be sufficient authority to the several respective officers of the receipt of the exchequer, now and for the time being, for the payment of all such salaries, pensions, or sums of money, at the respective days to be appointed for such payments, without any further or other warrants to be sued for, had, or obtained in that behalf.

No. XII.
2 & 3 W. 4,
c. 116.

XIV. And whereas no provision has been made for defraying the charge of that part of the salaries of the several judges enumerated in this act, formerly charged upon the civil list in England and in Ireland, nor for any of the other salaries, allowances, and pensions to be granted under the authority of this act, for any period subsequent to the fifth day of April one thousand eight hundred and thirty-two; be it therefore enacted, That it shall be lawful for the lord high treasurer, or commissioners of the treasury, for the time being, or any three or more of them, after the passing of this act, and previously to the making up of the consolidated fund for the quarter then next ensuing, to direct and cause to be issued, out of the growing produce of the consolidated fund, such issues and payments as may be necessary to defray the charge of all such salaries, allowances, and pensions from the fifth day of April one thousand eight hundred and thirty-two to the fifth day of July one thousand eight hundred and thirty-two.

Paying up
salaries from
5th April,
1832.

XV. And whereas by an act passed in the sixth year of the reign of his late Majesty king George the fourth, intituled *An Act to regulate the Proceedings as to sealing of Writs in the Court of Exchequer in Ireland*, it was enacted, that from and after the fifth day of July one thousand eight hundred and twenty-five there should be issued and paid to the chancellor of the exchequer of Ireland, from time to time, for the time being, and during the continuance of any and every such chancellor of the exchequer in his said office, as a compensation for the loss which would be sustained by such chancellor of the said exchequer by reason of the said act, the sum of six hundred pounds British currency, yearly and every year, out of and charged and chargeable upon the consolidated fund of the united kingdom of Great Britain and Ireland: And whereas the salary of the chancellor of the exchequer for the time being is now otherwise provided for; be it therefore enacted, That the said act, so far as the same relates to any payment to be made to the chancellor of the exchequer for the time being, in compensation for fees, shall be and the same is hereby repealed.

Repeal of
6 G. 4, as to
salary of
chancellor of
the exchequer
of Ireland.

[No. XIII.] 3 & 4 W. IV. c. 42.—An Act for the further Amendment of the Law, and the better Advancement of Justice.
[14th August 1833.]

XXXIX. And whereas it is expedient to render references to arbitration more effectual; be it further enacted, That the power and authority of any arbitrator or umpire appointed by or in pursuance of any rule of court, or judge's order, or order of nisi prius, in any action now brought or which shall be hereafter brought, or by or in pursuance of any submission to reference containing an agreement that such submission shall be made a rule of any of his Majesty's courts of record, shall not be revocable by any party to such reference without the leave of the court by which such rule or order shall be made, or which shall be mentioned

Submission to
arbitration by
rule of court,
&c. not to be
revocable
without leave
of the court.

No. XIII.
3 & 4 W. 4,
c. 42.

Power to com-
pel the attend-
ance of wit-
nesses.

in such submission, or by leave of a judge; and the arbitrator or umpire shall and may and is hereby required to proceed with the reference notwithstanding any such revocation, and to make such award, although the person making such revocation shall not afterwards attend the reference; and that the court or any judge thereof may from time to time enlarge the term for any such arbitrator making his award (1).

XL. That when any reference shall have been made by any such rule or order as aforesaid, or by any submission containing such agreement as aforesaid, it shall be lawful for the court by which such rule or order shall be made, or which shall be mentioned in such agreement, or for any judge, by rule or order to be made for that purpose, to command the attendance and examination of any person to be named, or the production of any documents to be mentioned in such rule or order; and the disobedience to any such rule or order shall be deemed a contempt of court, if, in addition to the service of such rule or order, an appointment of the time and place of attendance in obedience thereto, signed by one at least of the arbitrators, or by the umpire, before whom the attendance is required, shall also be served either together with or after the service of such rule or order: Provided always, that every person whose attendance shall be so required shall be entitled to the like conduct money, and payment of expences and for loss of time, as for and upon attendance at any trial: Provided also, that the application made to such court or judge for such rule or order shall set forth the county where such witness is residing at the time, or satisfy such court or judge that such person cannot be found: Provided also, that no person shall be compelled to produce, under any such rule or order, any writing or other document that he would not be compelled to produce at a trial, or to attend at more than two consecutive days, to be named in such order (2).

Power for the
arbitrators
under a rule of
court to admin-
ister an oath.

XLI. That when in any rule or order of reference, or in any submission to arbitration containing an agreement that the submission shall be made a rule of court, it shall be ordered or agreed that the witnesses upon such reference shall be examined upon oath, it shall be lawful for the arbitrator or umpire, or any one arbitrator, and he or they are hereby authorized and required, to administer an oath to such witnesses, or to take their affirmation in cases where affirmation is allowed by law instead of oath; and if upon such oath or affirmation any person making the same shall wilfully and corruptly give any false evidence, every person so offending shall be deemed and taken to be guilty of perjury, and shall be prosecuted and punished accordingly.

Power of
granting com-
missions to take
affidavits to
extend to Scot-
land and
Ireland.

XLII. And whereas it would be convenient if the power of the superior courts of common law and equity at Westminster to grant commissions for taking affidavits to be used in the said courts respectively should be extended; be it further enacted by the authority aforesaid, That the lord high chancellor, lord keeper or lords commissioners of the great seal, the said courts of law, and the several judges of the same, shall have such and the same powers for granting commissions for taking and receiving affidavits in Scotland and Ireland, to be used and read in the said courts respectively, as they now have in all and every the shires and counties within the kingdom of England, and dominion of Wales, and town of Berwick-upon-Tweed, and in the Isle of Man, by virtue of the statutes now in force; and that all and every person and persons wilfully swearing or affirming falsely in any affidavit to be made before any person or persons who shall be so empowered to take affidavits under the authority aforesaid shall be deemed guilty of perjury, and shall

(1) In a recent case in the exchequer, the court, although of a contrary opinion at first, seemed inclined to think, but did not decide the point, that under this clause the court had power to enlarge the time in a submission to reference, where there had been no revocation by either party. *Potter v. Newman*, M. T. MS.

(2) Formerly a witness could not be compelled to attend before an arbitrator, even although he had engaged to attend, and it was doubtful whether a witness could be indicted for perjury in respect of any false swearing before the arbitrator. 2 Chitty's Gen. Pr. of the Law, 98, 3 Car. & P. 419.

incur and be liable to the same pains and penalties as if such person had wilfully sworn or affirmed falsely in the open court in which such affidavit shall be entitled, and be liable to be prosecuted for such perjury in any court of competent jurisdiction in that part of the united kingdom in which such offence shall have been committed, or in that part of the united kingdom in which such person shall be apprehended on such a charge.

No. XIII.
3 & 4 W. 4,
c. 42.

XLIII. And whereas the observance of holidays in the said courts of common law during term time, and in the offices belonging to the same, on the several days on which holidays are now kept, is very inconvenient, and tends to delay in the administration of justice; be it therefore enacted by the authority aforesaid, That none of the several days mentioned in the statute passed in the sessions of parliament holden in the fifth and sixth years of the reign of king Edward the sixth, intituled *An Act for keeping Holidays and Fasting Days*, shall be observed or kept in the said courts, or in the several offices belonging thereto, except Sundays, the day of the nativity of our Lord and the three following days, and Monday and Tuesday in Easter week. For the abolition of certain holidays.
5 & 6 Edw. 6, c. 3.

XLIV. That this statute shall commence and take effect on the first day of June one thousand eight hundred and thirty-three. Commencement of act.

XLV. That nothing in this act shall extend to that part of the united kingdom called Ireland, or that part of the united kingdom called Scotland, except in the cases herein-before specially mentioned (1). Not to extend to Ireland or Scotland.

[No. XIV.] 4 & 5 W. IV. c. 68.—An Act to authorize an Advance out of the General Funds of Monies belonging to the Suitors of the Courts of Chancery and Exchequer in Ireland, towards the Purchasing of Ground, and Building thereon Offices necessary to the Courts of Justice in Dublin.
[13th August 1834.]

[No. XV.] 5 & 6 W. IV. c. 46.—An Act to amend, until the End of the next Session of Parliament, an Act of the Second Year of His present Majesty, for making Provision for the Dispatch of the Business now done by the Court of Exchequer in Scotland.
[31st August 1835.]

WHEREAS by any act passed in the second year of the reign of his present Majesty, intituled *An Act for making Provision for the Dispatch of the Business now done by the Court of Exchequer in Scotland*, it is amongst other things enacted, That if at any time after the passing of the said act the number of the barons of the said court shall be reduced, or after the retirement or decease of the last remaining baron, then and in such case it shall and may be lawful during the indisposition or absence of the baron and barons of such court to which the same shall be reduced, or of the judge of the court of session to be appointed to try the suits and causes in the said court, to and for the judge of the court of session, officiating as lord ordinary upon the bills for the time being, to grant warrant for the issuing of all commissions to find debts, and fiats for the issuing of all writs and extents, and other process issuable out of the said court of exchequer, and also to revise such signatures for the granting of crown charters as may be of an urgent nature and require dispatch, in like manner and to as full force and effect as the lord chief baron or other barons of the said court 2 W. 4, c. 54.

No. XV.
5 & 6 W. 4,
c. 46.

In case of in-
disposition of re-
maining baron
of court of ex-
chequer, judge
of court of ses-
sion to try suits
in the exche-
quer court.

Duration of
act.

are by law authorized to do: And whereas the lord chief baron and one of the barons of the said court of exchequer have retired since the passing of the said act, and the powers and duties of the said court of exchequer are now discharged by the sole remaining baron of the said court: And whereas, in consequence of the continued indisposition of the said sole remaining baron, it has become expedient to provide more effectually for the proper dispatch of the business of the said court of exchequer: Be it therefore enacted, &c., That at any time after the passing of this act it shall and may be lawful, during the indisposition or unavoidable absence of the said sole remaining baron of the court of exchequer, or of the judge of the court of session, to be appointed to try the suits and causes in the said court, and perform the other duties thereof in the said recited act mentioned, to and for the judge of the court of session officiating as lord ordinary upon the bills for the time being to try all suits and causes in the said court of exchequer, either in term or out of term, as he shall appoint, to grant warrant for the issuing of all commissions to find debts, and flats for the issuing of all writs of extent and other process issuable out of the said court of exchequer, and to revise, compound, and pass signatures for the granting of crown charters, and generally to perform all the powers and duties of the said court of exchequer, as fully and effectually as the lord chief baron, barons, and sole remaining baron of the said court were and are by law authorized to do; any thing in the said recited act to the contrary notwithstanding.

II. That this act shall continue in force until the end of the next session of parliament.

[No. XVI.] 5 & 6 W. 4. c. 82.—An Act to abolish certain Offices connected with Fines and Recoveries and the Curstors in the Court of Chancery, and to make Provision for the Abolition of certain Offices in the Superior Courts of Common Law in England. [10th September 1835.]

3 & 4 W. 4,
c. 74.

Certain offices
abolished.

WHEREAS by an act passed in the third and fourth years of the reign of his present Majesty, intituled *An Act for the Abolition of Fines and Recoveries, and for the Substitution of more simple Modes of Assurance*, it is enacted, That after the thirty-first day of December one thousand eight hundred and thirty-three no fine shall be levied or common recovery suffered of lands of any tenure, and that every fine or common recovery levied or suffered contrary to the provision of that act shall be absolutely void, save and except in cases where a writ of dedimus or other writ in the regular proceedings of such fine or recovery shall have been sued out on or before the said thirty-first day of December one thousand eight hundred and thirty-three: And whereas by the operation of the said act the business of certain offices in the court of common pleas and of the alienation office has almost wholly ceased; and it is expedient that the said offices should be abolished, and the few duties remaining to be performed transferred to some other officer: Be it therefore enacted, &c., That from and after the thirty-first day of December one thousand eight hundred and thirty-five the several offices in his Majesty's court of common pleas hereafter mentioned, namely, of the chirographer, and the secondary register and clerks of counties in the office of the chirographer, of the clerk of the king's silver, and of the clerk of the return office and of the inrolment of writs for fines and recoveries, and also the several offices in the alienation office, consisting of two commissioners, a receiver general, two entering clerks, a master in chancery appointed for taking affidavits, and an office keeper, shall be and the same are hereby abolished.

Records, &c.
transferred to
the registrar in

II. That the several records, books, and other documents of and con-
London under 3 & 4 W. 4, c. 74, subject to orders of the court of common pleas.

cerning the duties and business of the said offices so abolished as aforesaid shall on or before the said thirty-first day of December be delivered by the several officers or persons now having custody of the same into the hands and possession of the officer of the court of common pleas at Westminster for the time being appointed or to be appointed by the lord chief justice of the court of common pleas, for the purpose of examining, filing, and recording all certificates of the taking of acknowledgments by married women of deeds under the provisions of the said in part recited act, to be by him kept and preserved; subject nevertheless to such rules, orders, and regulations as the court of common pleas shall or may from time to time make or ordain in respect of the same.

III. That from and after the said thirty-first day of December, in all such cases where parties intending to levy a fine or suffer a common recovery shall on or before the thirty-first day of December one thousand eight hundred and thirty-three have sued out a writ of dedimus or any other writ in the regular proceedings of such fine or recovery, the proceedings, matters, and things usually done, performed, filed, or recorded by the officers whose offices are hereby abolished, or any of them, which are by law required or needful to be done, performed, filed, or recorded in respect of every such fine or recovery, shall be done, performed, filed, or recorded by the said officer of the court of common pleas for the time being appointed or to be appointed for examining, filing, and recording the before-mentioned certificates; and the proceedings, matters, and things in all such fines and recoveries so done, performed, filed, or recorded by the said officer of the court of common pleas shall from and after the thirty-first day of December one thousand eight hundred and thirty-five be as full and effectual to all intents and purposes in law and equity as if the said proceedings, matters, and things had been done, performed, filed, and recorded by the officers whose offices are hereby abolished; any law, custom, or usage to the contrary notwithstanding: Provided always, That the said officer of the court of common pleas for the time being in the performance and execution of the duties and business hereby transferred to him shall be subject to all the enactments and provisions now in force by virtue of any statute or statutes, and to all the rules, orders, and regulations of the court of common pleas now in force or which may hereafter be made relating to all such fines and recoveries, where the writ of dedimus or other writ in the regular proceedings of such fines and recoveries shall have been sued out on or before the said thirty-first day of December one thousand eight hundred and thirty-three.

IV. That from and after the said thirty-first day of December one thousand eight hundred and thirty-five searches may be made, and copies or extracts of and from the said records, books, and documents shall and may be had and taken, at such times and in such manner as hath been the accustomed practice in the offices hereby abolished; and all such copies or extracts, signed and authenticated by the said officer of the court of common pleas for the time being appointed or to be appointed as aforesaid, shall be as available in evidence, and as valid and effectual, to all intents and purposes, as the same would by law have been if the same had been signed, authenticated, and given by the officers whose offices are hereby abolished, or any of them.

V. That from and after the said thirty-first day of December any fine or fines usually called pre fines and post fines, now payable on alienation of lands or other hereditaments to the receiver general of alienation fines, in cases where the writ of dedimus or any other writ in the regular proceedings of levying a fine or suffering a common recovery shall have been issued on or before the thirty-first day of December one thousand eight hundred and thirty-three shall be assessed by and paid to the officer of the court of common pleas for the time being appointed or to be appointed as aforesaid, in like manner as the same is or are now paid and payable to the said receiver general of alienation fines; and the said

No. XVI.
5 & 6 W. 4,
c. 82.

Business of
abolished
offices transferred to the
registrar under
3 & 4 W. 4,
c. 74.

Searches may
be made and
copies taken,
which shall be
as available as
heretofore.

Fines heretofore paid in the alienation office to be paid to registrar under 3 & 4 W. 4, c. 74, and accounted for by him.

No. XVI.
5 & 6 W. 4,
c. 82.

Same fees as heretofore to be received and accounted for, and treasury to affix remuneration of registrar for performing the duties imposed upon him.

Compensation to lords of liberties and others for loss of fines.

The sum of 2,000l. heretofore paid by receiver of alienation fines to the hanaper to be paid out of the consolidated fund.

officer of the court of common pleas for the time being is hereby required to keep a true and full account of every pre and post fine received by him, and to account for such fines to the lord high treasurer or commissioners of his Majesty's treasury at such times and in such manner as he or they may direct.

VI. That it shall be lawful for such officer of the court of common pleas for the time being appointed or to be appointed as aforesaid, from and after the thirty-first day of December, to demand and receive the same fees and emoluments for all proceedings, matters, and things done, performed, filed, or recorded by him as the several officers whose offices are hereby abolished have been accustomed to demand and receive; and the said officer of the court of common pleas for the time being is hereby required to account for all such fees and emoluments received by him to the said lord high treasurer or commissioners of his Majesty's treasury at such times and in such manner as he or they may direct; and the said lord high treasurer or commissioners of his Majesty's treasury is and are hereby authorized and empowered to allow such officer of the court of common pleas for the time being such remuneration for the performance of the duties imposed upon him by this act as he or they shall think reasonable and proper.

VII. And whereas by the operation of the said in part recited act for the abolition of fines and recoveries several lords of liberties and other persons in England and Wales, who are lawfully entitled to receive certain sums or fines, or parts of fines, payable on the alienation of land and other hereditaments by fine or recovery, have been and will be wholly deprived thereof, and it is reasonable and fit that compensation should be made to the said persons for such losses; be it therefore enacted, That it shall be lawful for the lord high treasurer or commissioners of his Majesty's treasury for the time being, or any three or more of them, by warrant under their hands to order and direct that from and after the thirty-first day of December one thousand eight hundred and thirty-three such annual or other compensation as in his or their discretion shall seem just and reasonable shall be made to all and every the lords of liberties, lessees or grantees under the crown, bodies corporate and politic and other persons who at the time of the passing of the said act were lawfully entitled to fines or parts of fines payable on alienation of land and other hereditaments in England or Wales as aforesaid, for any loss which they have and will respectively sustain by reason of the abolition of such fines; and all such compensations, whether annual or in gross, shall be issued and paid and payable out of and charged and chargeable upon the consolidated fund of the united kingdom of Great Britain and Ireland: Provided always, That an account of all such compensations shall within fourteen days next after the same shall be so granted be laid before the commons house of parliament, if parliament shall be then assembled, or if parliament shall not be then assembled then within fourteen days after the meeting of parliament their next following.

VIII. And whereas the receiver general of alienation fines, prior to the commencement of the year one thousand eight hundred and thirty-four, paid to the keeper or clerk of the hanaper in the court of chancery, or to his deputy, the sum of two thousand pounds per annum out of the monies received for fines at the alienation office upon writs of covenant and writs of entry, towards defraying the salaries, allowances, and other payments charged upon the said keeper or clerk of the hanaper by acts of parliament and other authorities: And whereas in consequence of the abolition of fines and recoveries the said receiver general has not been enabled to pay the said sum since the commencement of the year one thousand eight hundred and thirty-four, and it is necessary that provision should be made for charging it upon the consolidated fund; be it therefore enacted, That it shall be lawful for the lord high treasurer or commissioners of his Majesty's treasury for the time being, if he or they shall think proper, to direct a sum not exceeding two thousand pounds per annum to be charged upon the consolidated fund of the

united kingdom of Great Britain and Ireland, and to be issued and paid and payable to the keeper or clerk of the hanaper in the court of chancery, or to his deputy, at such times and in such portions as the said lord high treasurer or the commissioners of his Majesty's treasury may direct, to enable the said keeper or clerk of the hanaper, or his deputy, to provide for and discharge the salaries, allowances, and other payments charged upon and payable in the said office of the hanaper, the first payment of two thousand pounds per annum, or such part thereof as may be required, to be reckoned and be payable from the first day of January one thousand eight hundred and thirty-four.

IX. And whereas by the operation of this act the emoluments of the acting cursitors of the court of chancery will be entirely taken away, and it is reasonable and fit that compensation should be made to the persons now holding those situations, for the loss thereof; be it therefore enacted, That it shall and may be lawful for the lord high treasurer or any three or more of the commissioners of his Majesty's treasury for the time being, by warrant under his or their hands, to order and direct that such annual or other compensation as to him or them, in their discretion, shall seem just and reasonable, shall be made to the persons now performing the duties of acting cursitors of the court of chancery, for any loss of emoluments arising from such employment which they may respectively sustain by reason of the abolition of the offices of the cursitors of the said court by the provisions of this act, and such compensations, whether annual or in gross, shall be issued and paid and payable out of and be charged and chargeable upon the consolidated fund of the united kingdom of Great Britain and Ireland: Provided always, That an account of such compensations shall within fourteen days next after the same shall be so granted be laid before the commons house of parliament, if parliament shall be then assembled, or if parliament shall not be then assembled then within fourteen days after the meeting of parliament then next following.

X. And whereas by the operation of an act passed in the second year of the reign of his present Majesty, intituled *An Act for Uniformity of Process in Personal Actions in His Majesty's Courts of Law at Westminster*, and of another act passed in the third and fourth years of the reign of his present Majesty, intituled *An Act for the Abolition of Fines and Recoveries, and for the Substitution of more simple Modes of Assurance*, the business of the cursitors of the high court of chancery has been greatly diminished, and it is expedient that their offices should be abolished, and the few remaining duties transferred to some other officer belonging to the said court; be it therefore enacted, That from and after the said thirty-first day of December the offices of the cursitors of the said high court of chancery shall utterly cease and determine, and all and every the duties of the said cursitors shall be performed by the clerks of the petty bag office in the said court for the time being, and all the acts to be done by the said clerks of the petty bag office in the performance of the duties of the said cursitors, from and after the said thirty-first day of December, shall, in all respects, and to all intents and purposes, have the same force and effect as if the same had been done and performed by the said cursitors or by their deputies.

XI. That the several records, books, and other documents of and concerning the duties and business of the offices of the said cursitors shall, on or before the said thirty-first day of December, be delivered by the said cursitors or their deputies into the hands and possession of the said clerks of the petty bag office, to be by them kept and preserved for the same uses and purposes as the said records, books, and other documents have been heretofore kept and preserved in the office of the said cursitors.

XII. That it shall be lawful for the said clerks of the petty bag office for the time being, from and after the said thirty-first day of December, to demand and receive the same fees for all acts, matters, and things

No. XVI.

5 & 6 W. 4,
c. 82.

Compensation for loss of emoluments to acting cursitors of the court of chancery to be paid out of the consolidated fund.

Cursitors of the court of chancery abolished from and after 31st December 1835, and duties transferred to petty bag office.
2 W. 4, c. 39.
3 & 4 W. 4, c. 74.

Records, &c. of the cursitors transferred to the clerks of the petty bag office.

Clerks of the petty bag office to re-

No. XVI.
5 & 6 W. 4,
c. 82.

ceive the same
fees as the cur-
sitors for all
acts done by
them.

done, performed, and executed by them as the several cursitors whose offices are hereby abolished have been accustomed to demand and receive; and the said clerks of the petty bag office for the time being are hereby required to account for all such fees received by them to the said lord high treasurer or commissioners of his Majesty's treasury, at such times and in such manner as he or they may direct; and the said lord high treasurer or commissioners of his Majesty's treasury is and are hereby authorized and empowered to allow the clerks of the petty bag office for the time being such remuneration for the performance of the duties hereby imposed upon them as he or they shall think reasonable and proper.

PART IV.

CLASS II.

ATTORNEYS AND OTHER OFFICERS—PROCHEIN AMY.

[No. I.] 1 W. 4. c. 70.—An Act for the more effectual Administration of Justice in England and Wales.

[23rd July, 1830.]

X. That all persons admitted or admissible to practise as attorneys in the courts of king's bench and common pleas shall be admissible in like manner as attorneys of the court of exchequer, and be admitted and allowed to practise there as such, upon application to the barons of that court, without being obliged to employ any clerk in court in the capacity of attorney of the court of exchequer, any law or usage to the contrary notwithstanding; and that it shall be lawful for the barons of the said court, and they are hereby required, to distinguish by their rules and orders the fees which shall continue to be taken by the sworn and side clerks of the court for the duties performed as officers of the court, similar to the duties of the officers of the other superior courts, from such fees and charges as shall be allowed to be taken by the attorneys so admitted to practise, so that the amount of such fees and charges upon the whole do not exceed the amount and rate of such fees and charges as are now allowed upon the taxation of costs. (1)

Attornies of king's bench or common pleas may practise in the exchequer in like manner. Fees of clerks.

XI. That in all cases relating to the practice of any of the courts of king's bench, common pleas, or exchequer, in matters over which said courts have a common jurisdiction, or of or relating to the practice of the court of error before mentioned, it shall be lawful for the judges of the said courts jointly, or any eight or more of them, including the chiefs of each court, to make general rules and orders for regulating the proceedings of all the said courts; which said rules and orders so made shall be observed in all the said courts; and no general rule or order respecting such matters shall be made in any manner, except as aforesaid.

Judges may make rules for regulation of courts (2).

XVI. That all persons who on or before the passing of this act shall have been admitted as attorneys and shall then be practising in any of the courts of sessions or great sessions in the county palatine of Chester or in Wales respectively, shall be entitled, upon the payment of one shilling, to have their names entered upon a roll to be kept for that purpose in each of the superior courts of Westminster, and thereupon be allowed to practise in such courts in all actions and suits against persons residing, at the commencement of the suit, within the county of Chester or principality of Wales; and that all persons having served or now actually serving as clerks to such attorneys under articles, and who would otherwise be entitled to be admitted as attorneys of the said courts of great sessions, may, on or before the expiration of six months after the passing of this act, be admitted as attorneys of the said courts at Westminster, for the purpose of practising there, in the like matters

Attornies of courts of great sessions allowed to practise, on payment of certain fees.

(1) The privileges of the sworn and side clerks are not abolished by this statute nor by the 2 & 3 W. 4. c. 110; they may, therefore, still arrest other attorneys who become indebted to them by *capias* of privilege, in the same way as they did before. *Stokes v. White*, 2 Dougl. P. C. 703; 1 C. M. & R. 223, S. C.

(2) Numerous rules of court have been from time to time made by the judges in pursuance of the power given them by the above clause.

No. I.
1 W. 4, c. 70.

Attornies of
great sessions
may be ad-
mitted as at-
tornies at
Westminster.

Masters extra-
ordinary acting
in courts abo-
lished by this
act allowed to
exercise same
powers, upon
certain con-
ditions.

only, without payment of any greater duty than would be now payable by law upon their admission as attornies of such courts of great sessions respectively.

XVII. That all attornies and solicitors now actually admitted and practising in any of the said courts of sessions or great sessions may be admitted as attornies of the said courts at Westminster, in like manner as is now or may be hereafter prescribed for the admission of other persons as attornies therein, upon payment of such sum for duty, in addition to the sum already paid by them in that behalf, as shall, together with such latter sum, amount to the full duty required upon admission of attornies in the said courts at Westminster; and that all persons having served or now actually serving under articles as clerks to such attornies or solicitors of any of the said courts of sessions or great sessions, may, at the expiration of their respective times of service, be admitted as attornies of the said courts at Westminster, in like manner and upon payment of the like duty, as if they had served under articles as clerks to attornies of the last-mentioned courts.

XVIII. That any person who shall have been duly appointed a commissioner for taking affidavits, or a master extraordinary in chancery of any of the courts abolished by this act, shall, upon producing his appointment before the proper officer, and upon the payment of one shilling, be entitled to have his name inserted in a list to be kept for that purpose of such commissioners or masters extraordinary, as the case may be, and to exercise, within the limits of his existing commission or commissions, the same power and authority, and for the same purposes, as if his commission had issued from one of his Majesty's courts at Westminster.

[No. II.] 5 & 6 W. IV. c. 11.—An Act to indemnify such Persons in the United Kingdom as have omitted to qualify themselves for Offices and Employments, and for extending the Time limited for those Purposes respectively until the Twenty-fifth Day of March One thousand eight hundred and thirty-six; to permit such Persons in Great Britain as have omitted to make and file Affidavits of the Execution of Indentures of Clerks to Attornies and Solicitors to make and file the same on or before the First Day of Hilary Term One thousand eight hundred and thirty-six; and to allow Persons to make and file such Affidavits, although the Persons whom they served shall have neglected to take out their Annual Certificates. [3rd July 1835.]

Indemnity to
persons who
have paid the
duties on in-
dentures to
serve as clerks
to attornies,
&c., but have
neglected to
cause affidavits
thereof to be
made.

VI. WHEREAS many persons who may have paid the proper stamp duties, either before or within six months after the execution of the contracts in writing entered into by them to serve as clerks to attornies or solicitors, scriveners, or notaries public in Great Britain, have omitted to cause affidavits to be made, and afterward to be filed in the proper office, of the actual execution of such contracts, and have also omitted to cause such contracts and the indentures thereof to be enrolled within the time in which the same ought to have been done; and many solicitors, attornies, notaries public, and others have omitted to take out annual certificates, or to enter the same in the proper office; and many infants and others may thereby incur certain disabilities: For preventing thereof, and relieving such persons, be it enacted, That every person who shall, either before or within six months after the execution of such contract or indenture, have paid the proper stamp duty in that behalf, and who at the passing of this act shall have neglected or omitted to

cause any such affidavit or affidavits as aforesaid to be made and filed, or such contract or indenture to be enrolled, and who, on or before the first day of Hilary term one thousand eight hundred and thirty-six, shall cause such contract or indenture to be enrolled with the proper officer in that behalf, and one or more affidavit or affidavits to be made, and afterwards to be filed, in such manner as the same ought to have been made and filed in due time, shall be and is hereby indemnified, freed, and discharged from and against all penalties, forfeitures, incapacities, and disabilities in or by any act or acts of parliament mentioned, and incurred or to be incurred for or by reason of such neglect or omission; and every such affidavit and affidavits so to be made, and which shall be duly filed on or before the first day of Hilary term one thousand eight hundred and thirty-six, shall be as effectual to all intents and purposes as if the same had been made and filed within the respective times the same ought, by the laws now in being for that purpose, to have been made and filed; and that the respective officer or officers who ought to receive, file, enter, or register such contract or indenture, or affidavit or affidavits, shall not refuse to receive, file, enter, or register the same by reason that the attorney, solicitor, or notary public to whom such infant or other person shall have been articulated or have contracted to serve, shall have neglected to take out his annual certificate, or to register the same, but such officer or officers are hereby directed and empowered to receive, file, enter, or register the same, notwithstanding such omission; and that every person who shall have regularly served any attorney or attornies, solicitor or solicitors, notary public or notaries public, for the term of years required by law, shall not be prevented or disqualified from being admitted an attorney, solicitor, or notary public, by reason of any omission of the person or persons to whom he served for the same term, or for any part thereof, having so neglected to take out his annual certificate, or to register the same, provided that such person is otherwise entitled to be created and admitted to such office by the laws now in force relating thereto.

No. II.
5 & 6 W. 4,
c. 11.

Neglect of attornies, &c. in taking out their annual certificates not to disqualify the persons who have served them.

VII. That in case the attorney, solicitor, proctor, or notary to whom any person shall have duly served his clerkship under articles in writing for that purpose shall after such service of the clerk be struck off the roll in consequence of some defect in the service under the articles of clerkship or of the admission and enrolment of such attorney, solicitor, proctor, or notary, the person who has so duly served his clerkship shall not be prevented or disqualified from being admitted and enrolled as an attorney, solicitor, proctor, or notary, nor liable to be struck off the roll, if admitted, by reason of any such defect as aforesaid, provided that such clerk or person be otherwise entitled to be admitted and enrolled according to the laws now in force relating thereto.

Defects in the service, &c. of attornies not to disqualify persons who have served them.

VIII. That no person who has been admitted and enrolled and in actual practice as an attorney, solicitor, proctor, or notary shall be liable to be struck off the roll for or on account of any defect in the articles of clerkship, or the registry thereof, or the service under such articles, or of his admission and enrolment, unless the application for striking him off the roll be made within twelve months from the time of his admission and enrolment, provided that such articles, registration, service, admission, or enrolment be without fraud.

Applications for striking attornies off the roll for defect in articles, &c. to be made within twelve months of admission.

IX. Provided always, That this act or any thing herein contained shall not extend or be construed to extend to restore or entitle any person or persons to any office or employment, benefice, matter, or thing whatsoever, already actually avoided by judgment of any of his Majesty's courts of record, already legally filled up and enjoyed by any other person; but that such office or employment, benefice, matter, or thing, so avoided or legally filled up and enjoyed, shall be and remain in and to the person or persons who is or are now or shall at the passing of this act be legally entitled to the same, as if this act had never been made.

Not to restore persons to any office avoided by judgment.

X. That in case any action, suit, bill of indictment, or information General issue.

No. II. shall from and after the passing of this act be brought, carried on, or
 5 & 6 W. 4, prosecuted against any person or persons hereby meant or intended to
 c. 11. be indemnified, recapacitated, or restored, for or on account of any forfeiture, penalty, incapacity, or disability whatsoever incurred or to be incurred by any such neglect or omission, such person or persons may plead the general issue, and upon their defence give this act and the special matter in evidence upon any trial to be had thereupon.

[For the clauses of the Uniformity of Process act relating to attorneys, see *post*, Part IV., Class 3.]

By a rule of Hilary term, 2 W. 4, a special admission of *prochein amy*, or guardian to prosecute or defend for an infant, shall not be deemed an authority to prosecute or defend in any but the particular action or actions specified.]

PART IV.

CLASS III.

ORIGINAL WRIT, PROCESS, ARREST, IMPRISONMENT, BAIL, APPEARANCE.

[No. I.] 1 W. IV. c. 33.—An Act to continue for one Year and from thence until the end of the then next Session of Parliament, the Act for the Relief of Insolvent Debtors in Ireland.

[No. II.] 1 W. IV. c. 38.—An Act to continue and amend the Laws for the Relief of Insolvent Debtors in England (1). [16th July 1830.]

WHEREAS an act was passed in the seventh year of the reign of his present Majesty, intituled *An Act to amend and consolidate the Laws 7 G 4, c. 57. for the Relief of Insolvent Debtors in England*; and it is expedient to continue the said act; be it therefore enacted, &c. and by the authority Recited act of the same, That the said act shall be and the same is hereby continued.

II. That all provisions in the said act contained, concerning the removal of assignees and the appointment of new assignees, and concerning assignees' accounts, and concerning the amount of debts, and claims to receive dividends, and the ascertaining thereof, and concerning all matters to be done and observed, when it may appear to the court for relief of insolvent debtors in any case that all debts have been discharged, and concerning the proof or evidence of conveyances and assignments, and of all proceedings had or being of record in the said court, shall be deemed to extend to the cases of all persons who petitioned under the several acts recited in the said act, as well as of persons petitioning under the said act. Certain provisions in recited acts to extend to all persons petitioning.

III. And whereas doubts have arisen whether warrants of attorney, executed by insolvent debtors before adjudication made in the matters of their petitions pursuant to the several acts passed for their relief, are to be deemed secret warrants of attorney within the meaning and provisions of an act passed in the third year of the reign of his present Majesty, intituled *An Act for preventing Frauds on Creditors by secret Warrants of Attorney to confess Judgment*; it is hereby declared and enacted, That such warrants of attorney, executed and to be executed as aforesaid, are not within the meaning and provisions of the said last-mentioned act, and that the same have been, are, and shall be valid and effectual; any thing in the said last-mentioned act, or in any act extending the provisions thereof, notwithstanding. Warrants of attorney executed by prisoners under acts for their relief declared not to be within 3 Geo. 4, c. 39.

IV. And whereas it is for the benefit of prisoners petitioning the said court, and especially of those whose cases may be heard before a commissioner on circuit, or before justices of the peace at their quarter sessions, that the said act should be continued, be it enacted, That the said act should be continued, and that the same shall be and the same is hereby continued. Adjudication may be made conditional in certain cases.

(1) See post, the 2 W. 4, c. 44.

No. I.
1 W. 4, c. 38.

sions in Wales or the town of Berwick-upon-Tweed, where it may appear in the case of any such prisoner, on the hearing, that the proof of notice to creditors is imperfect, or that any other matter or thing ought to be done by or on behalf of such prisoner before he or she is actually discharged from custody, that nevertheless adjudication should be made conditional upon such matter or thing being performed, and that the hearing of such case should stand adjourned only on failure therein: And whereas doubts have arisen as to the competency of proceeding in manner above mentioned; it is hereby declared and enacted, That where it shall appear to the said court, commissioner, or justices, at the hearing of the matters of the petition of any such prisoner, that certain matters or things ought to be performed by or on behalf of such prisoner, before he or she is entitled to be actually discharged from custody, but that nevertheless it is expedient not to adjourn the hearing of such case absolutely to some future occasion without the opportunity of such discharge being sooner had by doing such things as aforesaid, it shall and may be lawful for the said court, commissioner, or justices, to pronounce adjudication, without then issuing the order and warrant pursuant thereto, and that such adjudication may be directed to be conditional on the performance of such matters or things as aforesaid, and that on the nonperformance thereof the hearing of such case shall stand adjourned according to the direction made in that behalf; and that all proceedings heretofore had in manner aforesaid, in the matters of the petitions of any prisoners petitioning the said court, under any act or acts for the relief of insolvent debtors, shall be deemed good and valid to all intents and purposes.

Court may direct conveyance by provisional assignee where no assignee is appointed.

V. And whereas it may often happen that some interest in lands and tenements may become vested in the provisional assignee of the said court, which appears to be of no value to creditors, but nevertheless it may be reasonable and expedient that the said provisional assignee should make or join in making some conveyance or assignment of the same, and that the same should be done without the expence attending advertisements and meetings of creditors as prescribed by the said first-mentioned act in certain cases; be it therefore enacted, That it shall and may be lawful for the said court, at any time after the day gazetted for the hearing of the matters of the petition of any insolvent debtor, if no creditor shall have become assignee of his or her estate and effects, and if it shall appear fit, upon such notice given by advertisement or otherwise to the creditors or any of them as the said court shall in any case direct, to order the said provisional assignee to make or join in making any conveyance or assignment of any such interest as to the said court may appear just and reasonable, without observing the provisions of the said first-mentioned act as to the sale of real property by the provisional or other assignees of the estates of insolvent debtors.

Assignments made by provisional assignees declared valid.

VI. And it is further declared and enacted, That all assignments and conveyances heretofore made or to be made by such provisional assignee in any such cases, by order of the said court, shall be and the same are hereby declared to be good and valid to all intents and purposes; any thing in the said first-mentioned act or in any other act to the contrary notwithstanding.

Assignments by provisional assignee to be in the form annexed to this act.

VII. And whereas it is expedient to prescribe a form of conveyance and assignment from the provisional assignee to any other assignee or assignees when appointed by the said court, and also to remove any doubts as to the validity or effect of any conveyances or assignments at any time heretofore made and executed by the said provisional assignee by virtue of any order of the said court; be it therefore declared and enacted, That every conveyance and assignment hereafter to be made and executed by the provisional assignee for the time being to any other assignee or assignees, by virtue of any order of the said court, shall be in such form as is to this act annexed; and that every such conveyance and assignment, and also every conveyance and assignment at any time heretofore made and executed by the provisional assignee for the time

being, in obedience to any order of the court for relief of insolvent debtors, shall be deemed and taken to be valid and effectual to all intents and purposes whatever, and fully and effectually to vest and to have vested all and every estate and estates, real and personal, and all and every right, title, interest, and trust in and to the same, of what nature or kind soever, to which the insolvent debtor in each case respectively shall or may be or shall or may have been entitled in any manner or by any means whatsoever, or which such insolvent debtor shall or may be or shall or may have been required by law to convey and assign in trust for his or her creditors.

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VIII. And whereas it may happen that the chief or other commissioner for the relief of insolvent debtors may, by illness or other reasonable cause, be for a time disabled from performing his duties, whereby the business of the said court would be delayed: And whereas if such disability should occur to any such commissioner proceeding on his circuit, the suitors of the said court would be much prejudiced, unless some person should be authorized forthwith to undertake the duties of the said chief or other commissioner on his circuit; be it therefore further enacted, That if such disability as aforesaid shall occur to such chief or other commissioner at any time, not being the time of his circuit, it shall be lawful for any fit person, being a barrister at law, and appointed by one of his Majesty's principal secretaries of state, to execute the duties of such chief or other commissioner during such disability; and that if such disability shall occur during the time appointed for the circuit of such chief or other commissioner, it shall be lawful for any fit person, being a barrister at law, and nominated by such chief or other commissioner, to execute the duties of such chief or other commissioner on such circuit as aforesaid during such disability; and that all things done according to the provisions of this act and of the said act hereby continued, by such person so appointed or nominated as aforesaid, as the case may be, during such disability as aforesaid, shall be good and valid to all intents and purposes as if the same had been done by such chief or other commissioner: Provided always, that such chief or other commissioner, if such disability as aforesaid shall occur during the time appointed for his circuit, shall forthwith state the same, together with the cause thereof, and such nomination as aforesaid, in writing, and shall subscribe such statement, and shall send the same forthwith by his Majesty's post to one of his Majesty's principal secretaries of State.

In case of illness of a commissioner, another person may be appointed to execute the duties.

X. That during the continuance of this act no person shall be entitled to be discharged as an insolvent debtor, on his or her own petition or application, under or by virtue of the statute passed in the thirty-second year of the reign of king George the second, commonly called "The Lords Act," or of any other statute since passed for extending or continuing the same.

Prohibiting persons from being discharged under 32 G. 2, c. 28.

XI. That the said recited act and this act shall be and the same are hereby continued for two years, and from thence to the end of the then next session of parliament.

SCHEDULE TO WHICH THIS ACT REFERS.

Form of Conveyance and Assignment by the Provisional Assignee

THIS indenture, made the _____ day of _____ in the year of our Lord _____ between _____ provisional assignee of the estate and effects of insolvent debtors in England, of the one part, and _____ of the other part. Whereas by indenture bearing date the _____ day of _____ between _____ an insolvent debtor, then a prisoner in the _____ of the one part, and the said _____ such provisional assignee as aforesaid, of the other part, all the estate, right, title, interest, and trust

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of the said insolvent debtor in and to all the real and personal estate and effects of the said insolvent debtor, in possession, reversion, remainder, or expectancy, except the wearing apparel and other such necessities of the said insolvent debtor and family not exceeding in the whole the value of twenty pounds, were, among other things, conveyed and assigned to the said as such provisional assignee as aforesaid, his successors and assigns: Now this indenture witnesseth, that in obedience to an order of the court for relief of insolvent debtors, he the said at the request and with the consent of the said testified by sealing and delivering these presents, hath conveyed, assigned, transferred, and set over, and by these presents doth convey, assign, transfer, and set over, unto the said his heirs, executors, administrators, and assigns, all the estate, right, title, interest, and trust of, in, and to all the real and personal estate and effects whatsoever and wheresoever, and of what nature or kind soever, present and future, which by virtue of the said herein-before in part recited indenture now are in any way vested in the said as such provisional assignee as aforesaid, together with their and every of their rights, members, and appurtenances; to have and to hold, receive and take, all and every the said estate, effects, and premises, and every part thereof, conveyed, assigned, transferred, and set over, or mentioned or intended to be hereby conveyed, assigned, transferred, or set over, with their and every of their rights, members, and appurtenances, unto the said his heirs, executors, administrators, and assigns, according to the respective natures, properties, and tenures thereof; in trust nevertheless for the use, benefit, and advantage of the creditors of the said insolvent debtor who shall be entitled to share in a dividend of the said estate and effects, and to and for such other uses, intents, and purposes, and in such manner and form, as are in and by the said indenture expressed of and concerning the same, and to and for no other use, intent, or purpose whatsoever. In witness whereof the said parties have hereunto set their hands and seals, the day and year first above written.

Signed, sealed, and delivered by the
said
in the presence of
Signed, sealed, and delivered by the
said
in the presence of

[No. III.] 1 W. IV. c. 70.—An Act for the more effectual Administration of Justice in England and Wales.

[23rd July 1830.]

Justification of
bail before
judge in cham-
bers.

Regulations as
to rendering in
discharge of
bail, defendant
not being in
custody.

XII. That bail may be justified before a judge in chambers, or in some other convenient place to be by him appointed, as well in term as in vacation, and whether the defendant be actually in custody or not.

XXI. That a defendant, who shall have been held to bail upon any mesne process issued out of any of his Majesty's superior courts of record, may be rendered in discharge of his bail, either to the prison of the court out of which such process issued, according to the practice of such court, or to the common gaol of the county in which he was so arrested, and the render to the county gaol shall be effected in the manner following; that is to say, the defendant, or his bail, or one of them, shall for the purpose of such render obtain an order of a judge of one of his Majesty's superior courts of Westminster, and shall lodge such order with the gaoler of such county gaol, and a notice in writing of the lodgment of such order, and of the defendant's being actually in custody of such gaoler by virtue of such order, signed by the defendant,

or the bail, or either of them, or by the attorney or agent of any or either of them, shall be delivered to the plaintiff's attorney or agent, and the sheriff or other person responsible for the custody of debtors in such county gaol shall, on such render so perfected be duly charged with the custody of such defendant, and the said bail shall be thereupon wholly exonerated from liability as such.

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1 W. 4, c. 70.

XXII. That a defendant who shall hereafter be in custody of the gaoler of the county gaol of any county in England or in the principality of Wales, by virtue of any proceeding out of any of his Majesty's superior courts of record, may be rendered in discharge of his bail in any other action depending in any of the said courts, in the manner herein-before provided for a render in discharge of bail; and the keeper of such gaol, or such sheriff or other person responsible for the custody of debtors as aforesaid, shall on such render be duly charged with the custody of such defendant, and the said bail shall be thereupon wholly exonerated from liability as such.

As to rendering in discharge of bail, defendant being already in custody.

[No. IV.] 2 W. 4, c. 39.—An Act for Uniformity of Process in Personal Actions in His Majesty's Courts of Law at Westminster (1). [23rd May 1832.]

WHEREAS the process for the commencement of personal actions in His Majesty's superior courts of law at Westminster is, by reason of its great variety and multiplicity, very inconvenient in practice; for remedy thereof be it enacted, &c., That the process in all such actions commenced in either of the said courts, in cases where it is not intended to hold the defendant to special bail, or to proceed against a member of parliament according to the provisions contained in the statute passed in the sixth year of the reign of His late Majesty King George the Fourth, intituled *An Act to amend the Laws relating to Bankrupts*, shall, whether the action be brought by or against any person entitled to the privilege of peerage or of parliament, or of the court wherein such action shall be brought, or of any other court, or to any other privilege, or by or against any other person, be according to the form contained in the schedule to this act annexed marked No. 1, and which process may issue from either of the said courts, and shall be called a writ of summons (2); and in every such writ, and copy thereof, the place and county of the residence or supposed residence of the party defendant, or wherein the defendant shall be or shall be supposed to be, shall be mentioned (3); [and such writ shall be issued by the officer of the said courts respectively by whom process serviceable in the county therein mentioned hath been heretofore issued from such court] (4); and every such writ may be served in the manner heretofore used in the county therein mentioned, or within two hundred yards of the border thereof (5), and not elsewhere, and the person serving the same shall and is hereby required to indorse on the writ the day of the month and week of the service thereof.

Serviceable process for the commencement of personal actions.

(1) See *post*, the 3 & 4 W. 4, c. 67, amending the present act.

(2) The writ of summons is now the commencement of the action, and that is reckoned from the time when the writ is sued out, and not from the time when it is served; *Alston v. Underhill*, 2 Dowd. 26; 3 Tyr. 427; 1 Cr. & M. 492.

And a defendant cannot avail himself of a ground of defence not perfected until after the writ was issued; *Worsick v. Berwick*, 10 B. & C. 676.

The declaration must correspond with the form of action specified in the writ, and if not it is irregular, and the court will set it aside, leaving the plaintiff to declare on the writ if he can do so, according to his cause of action; *Thompson v. Dicus*, 3 Tyr. 873; 1 Cr. & M. 768.

(3) The addition of the defendant need not be inserted in the writ of summons; it is sufficient to state his residence; *Morris v. Smith*, 2 Cr. M. & R. 120.

(4) The part within brackets is repealed by the 3 & 4 W. 4, c. 67, s. 1, *post*.

(5) See the 20th section, *post*.

No. IV.
2 W. 4, c. 39.

Mode of appearance to serviceable process.

Appearance may be enforced by writ of distringas in case a defendant cannot be served with the writ of summons.

II. That the mode of appearance to every such writ, or under the authority of this act, shall be by delivering a memorandum in writing according to the form contained in the said schedule, and marked No. 2, such memorandum to be delivered to such officer or person as the court out of which the process issued shall direct, and to be dated on the day of the delivery thereof

III. That in case it shall be made appear by affidavit, to the satisfaction of the court out of which the process issued, or in vacation, of any judge of either of the said courts, that any defendant has not been personally served with any such writ of summons as herein-before mentioned, and has not, according to the exigency thereof, appeared to the action, and cannot be compelled so to do without some more efficacious process, then and in any such case it shall be lawful for such court or judge to order a writ of distringas (1) to be issued, directed to the sheriff of the county wherein the dwelling house or place of abode of such defendant shall be situate, or to the sheriff of any other county, or to any

(1) In order to obtain the distringas, there must be an affidavit, and it must show that at least three attempts have been made to serve the defendant with the writ of summons, by calling at his dwelling-house or place of abode; *Anon.* 1 Dowl. 513; *Thomas v. Thomas*, 2 Mo. & S. 730; *Johnson v. Rouse*, 1 C. & M. 26; 1 Dowl. 641, S. C. Service at the office of an employer, in such a case, not being sufficient; *Thomas v. Thomas*, 2 Mo. & S. 730. It must also show that on each of the first two calls, deponent apprised the person whom he saw of the nature of his business; *Johnson v. Rouse*, 1 Dowl. 641; 1 C. & M. 26; and made an appointment to call again, in order to see the defendant; *ib.*; and he must appoint the day and hour at which he will make his subsequent calls; *Willis v. Bowman*, 2 Dowl. 413; and that on the last call (which must appear to have been eight days at least before the application to the court; *Brian v. Stretton*, 3 Tyr. 163; 1 C. & M. 74; 1 Dowl. 642,) a copy of the writ was left at the defendant's residence; *Anon.* 1 Dowl. 513; *Street v. Lord Alvanley*, *ib.* 638; 3 Tyr. 162; 1 C. & M. 27, S. C.; *Hill v. Mould*, 3 Tyr. 162; 2 Dowl. 10; 1 C. & M. 617, S. C. (held on conference with all the judges.) And to found an application for a distringas, it must be shown that the defendant is at home, or in the neighbourhood, during the time the party calls to serve him; *Price v. Bower*, 2 Dowl. 1.

The answers given to the deponent, on the different applications, must be stated in the affidavit; *Pagden v. Whalley*, 1 Leg. Ex. N. S. cited in *Tidd, Sup.* 1833, 79, per Bailey, B. And he must not only swear that he has not been able to serve defendant with a copy of the writ, but must state in his affidavit circumstances to satisfy the court, or a judge, that the defendant keeps out of the way to avoid being served; *Anon.* Dowl. 513; *Johnson v. Rouse*, 1 C. & M. 26; 1 Dowl. 641; 3 Tyr. 161, S. C.

When the residence of the defendant is unknown, endeavours must be made to serve the defendant personally, before the distringas can be obtained. What are sufficient endeavours to entitle a plaintiff to a distringas in such a case, does not appear to have been yet decided by the courts; 1 Dowl. 555.

The attempts to serve a summons in order to obtain a distringas may be made on the same day, it appearing that the defendant is keeping out of the way; *White v. Western*, 2 Dowl. 451. If, upon calling to serve a writ of summons, the answer given is, that the defendant is out of town, it must be shown to the court from inquiries made that there is reason to believe the answer to be false; *Smith v. Hill*, 2 Dowl. 225. A distringas will not be granted on an affidavit, merely stating the defendant to be absent in Ireland, without showing that he has gone there to avoid his creditors, although he may have a residence in town, at which unsuccessful attempts to serve him have been made; *Evans v. Fry*, 3 Dowl. 581.

The return of *non est inventus* or *nulla bona* is not alone sufficient to entitle the plaintiff to an appearance; *Daniels v. Varity*, 3 Dowl. 26.

In executing a distringas, it is sufficient that the sheriff takes all the property on the premises, though it amount to less than forty shillings, and on the sheriff's return the plaintiff will be entitled to enter an appearance; *Jones v. Dyer*, 2 Dowl. 445.

Where a defendant is abroad, a distringas may be obtained on a proper affidavit, either to compel his appearance, or for the purpose of proceeding to outlawry. If he be not abroad, a distringas for the purpose of outlawry, will not, it seems, be granted; and where there is reason to believe he is abroad, a distringas to compel an appearance, it is said, will not be allowed; one state of circumstances or the other must be made out; *Fraser v. Case*, 1 Dowl. 725; 9 Bing. 464; 2 Moore & S. 730, S. C. Accordingly, in a case in which it was not clear, on the face of the affidavit, whether the defendant was in this country or abroad, the court put the plaintiff to make his election as to the purpose for which he sought to obtain the distringas; *ib.* The affidavit must also state, when the defendant is abroad, not only that he went thither for the purpose of avoiding the demands of his creditors, but it must likewise satisfy the court, or a judge, by a statement of the circumstances, that he keeps

other officer to be named by such court or judge, in order to compel the appearance of such defendant; which writ of distringas shall be in the form, and with the notice subscribed thereto, mentioned in the schedule to this act, marked No. 3; which writ of distringas and notice, or a copy thereof, shall be served on such defendant, if he can be met with, or, if not, shall be left at the place where such distringas shall be executed; and a true copy of every such writ and notice shall be delivered together therewith to the sheriff or other officer to whom such writ shall be directed; and every such writ shall be made returnable on some day in term, not being less than fifteen days after the teste thereof, and shall bear teste on the day of the issuing thereof, whether in term or in vacation; and if such writ of distringas shall be returned non est inventus and nulla bona, and the party suing out such writ shall not intend to proceed to outlawry or waiver, according to the authority herein-after given, and any defendant against whom such writ of distringas issued shall not appear at or within eight days inclusive after the return thereof, and it shall be made appear by affidavit to the satisfaction of the court out of which such writ of distringas issued, or, in vacation, of any judge of either of the said courts, that due and proper means were taken and used to serve and execute such writ of distringas, it shall be lawful for such court or judge to authorize the party suing out such writ to enter an appearance for such defendant, and to proceed thereon to judgment and execution. (1)

No. IV.
2 W. 4, c. 39.

IV. That in all such actions wherein it shall be intended to arrest and hold any person to special bail who may not be in the custody of the marshal of the marshalsea of the court of king's bench or of the warden of the fleet prison, the process shall be by writ of capias according to the form contained in the said schedule and marked No. 4; and so many copies of such process, together with every memorandum or notice subscribed thereto, and all indorsements thereon, as there may be persons intended to be arrested thereon or served therewith, shall be delivered therewith to the sheriff or other officer or person to whom the same may be directed, or who may have the execution and return thereof, and who shall, upon or forthwith after the execution of such process, cause one such copy (3) to be delivered to every person upon whom such process shall be executed by him, whether by service or arrest, and shall indorse on such writ the true day of the execution thereof, whether by service or arrest (4); and if any defendant be taken or charged in custody upon any such process, and imprisoned for want of sureties for his appearance thereto, the plaintiff in such process may before the end of the next term after the detainer or arrest of such defendant, declare against such defendant, and proceed thereon in the manner and according to the directions con-

Bailable process for the commencement of personal actions.

out of the way to avoid being served; *Simpson v. Lord Graves*, 2 Dowl. 10. But where the defendant has gone abroad to avoid his creditors, leaving a servant in his house, a distringas will be granted, though he has not been served with the writ; *Moon v. Thynne*, 3 Dowl. 153.

A distringas for proceeding to outlawry may be grantable under circumstances which would not entitle plaintiff to a distringas to compel an appearance; *Jones v. Price*, 2 Dowl. 42, and see 3 Tyr. 822; *Hewit v. Milton*, 1 C. & M. 720.

(1) Where the sheriff has distrained the defendant's goods under a distringas, and the defendant does not appear according to the exigency of the writ, the plaintiff, in making an affidavit of the due execution of the distringas, may enter an appearance for him without leave of the court; *Johnson v. Smealey*, 1 Dowl. 526, 555; and it would seem that, after the sheriff has levied and returned the issues on the levy, the plaintiff may enter an appearance for the defendant without an affidavit; *Page v. Hemp*, T. T. 1835, *Law Journ. Exch.* 230; 10 *Leg. Obs.* 381, S. C.

(2) In what cases a party may be arrested; see 7 & 8 G. 4, c. 71; *Evans's Statutes*, Part IV. Class III.

(3) The copy must strictly correspond with the *capias*, for it cannot be amended after service; *Byfield v. Street*, 10 Bing. 27; 2 Dowl. 739. The omission of the day of the month in the teste of the copy is fatal; *Perring v. Turner*, 3 Dowl. 15.

(4) An indorsement on the copy of a *capias* served on the defendant at the time of the arrest, which required him to pay the debt within four days from the arrest in service thereof, is a sufficient compliance with the act; *Sutton v. Burgess*, 3 Dowl. 489.

No. IV.
2 W. 4, c. 39.
4 & 5 W. & M.
c. 21.

tained in a certain act of parliament made in the fourth and fifth years of the reign of king William and queen Mary, intituled *An Act for delivering Declarations against Prisoners*: provided always, that it shall be lawful for the plaintiff or his attorney to order the sheriff, or other officer or person to whom such writ shall be directed, to arrest one or more only of the defendants therein named, and to serve a copy thereof on one or more of the others, which order shall be duly obeyed by such sheriff or other officer or person; and such service shall be of the same force and effect as the service of the writ of summons herein-before mentioned, and no other.

Mode of detaining a prisoner in the custody of the marshal or of the warden of the Fleet.

VIII. That when it shall be intended to detain in any such action any person being in the custody of the marshal of the marshalsea of the court of king's bench or of the warden of the fleet prison, the process of detainer shall be according to the form of the writ of detainer contained in the said schedule and marked No. 5; and a copy of such process, and of all indorsements thereon, shall be delivered together with such process to the said marshal or warden to whom the same shall be directed, and who shall forthwith serve such copy upon the defendant personally, or leave the same at his room, lodging, or other place of abode; and such process may issue from either of the said courts, and the declaration thereupon shall and may allege the prisoner to be in the custody of the said marshal or warden, as the fact may be, and the proceedings shall be as against prisoners in the custody of the sheriff, unless otherwise ordered by some rule to be made by the judges of the said courts. (1)

Duration of writs.

X. That no writ issued by authority of this act shall be in force for more than four calendar months from the day of the date thereof, including the day of such date, but every writ of summons and *capias* may be continued by alias and pluries, as the case may require, if any defendant therein named may not have been arrested thereon or served therewith: Provided always, That no first writ shall be available to prevent the operation of any statute whereby the time for the commencement of the action may be limited, unless the defendant shall be arrested thereon or served therewith, or proceedings to or toward outlawry shall be had thereupon, or unless such writ, and every writ (if any) issued in continuation of a preceding writ, shall be returned *non est inventus*, and entered of record within one calendar month next after the expiration thereof, including the day of such expiration, and unless every writ issued in continuation of a preceding writ shall be issued within one such calendar month after the expiration of the preceding writ, and shall contain a memorandum indorsed thereon or subscribed thereto, specifying the day of the date of the first writ; and return to be made in bailable process by the sheriff or other officer to whom the writ shall be directed, or his successor in office, and in process not bailable,

Proviso as to Statute of Limitations.

(1) A plaintiff may issue a writ of detainer from and returnable in the court of common pleas, directed to the marshal of the king's bench, *Millard v. Millman*, 3 Moore & S. 63, 2 Dowl., 723, S. C.; or a writ of detainer may be issued from the court of king's bench, and returnable in that court directed to the warden of the fleet prison; and it is not necessary in either case to bring up the prisoner by *habeas corpus* into the court from which the writ issued, in order to charge him with a declaration; *Barrett v. Harris*, 2 Dowl. 186. The writ must be duly directed to the marshal or warden, by the proper description; and where a writ of detainer was directed "to the marshal of our prison of the marshalsea" instead of "the marshal of the marshalsea of our court before us" the defendant was discharged out of custody; *Storr v. Mount*, 2 Dowl. 417; on account of the doubt whether the intended officer was the gaoler of the palace court, or that of the proper king's bench prison; *Storr v. Mount*, 2 Dowl. 417. If the existing imprisonment has been occasioned by illegal process on proceeding of the same plaintiff, and not of a third person, a writ of detainer at his suit would be inoperative; *Rose v. Tomlinson*, 3 Dowl. 55, 56; and in that case a *capias* should be issued, and an arrest take place at a time and under circumstances that would be clearly legal; *Chitty G. P. L.*, vol. iii. 393. Where a sheriff has arrested a defendant by an illegal act, a contrivance of his officer in one action, he cannot detain him in another; *Barratt v. Price*, 9 Bing. 566; nor can a defendant who has been just discharged by a judge from an illegal writ be arrested is returning; *Rex v. Blake*, 2 Nev. & Man. 312.

by the plaintiff or his attorney suing out the same, as the case may be. (1)

No. IV.
2 W. 4, c. 39.

XI. And whereas, according to the present practice, in certain cases no proceedings can be effectually had on any writ returnable within four days of the end of any term, until the beginning of the ensuing term, whereby an unnecessary delay is sometimes created; for remedy thereof be it enacted, That if any writ of summons, *capias*, or detainer issued by authority of this act shall be served or executed on any day, whether in term or vacation, all necessary proceedings to judgment and execution may, except as herein-after provided, be had thereon, without delay, at the expiration of eight days from the service or execution thereof, on whatever day the last of such eight days may happen to fall, whether in term or vacation: Provided always, That if the last of such eight days shall in any case happen to fall on a Sunday, Christmas day, or any day appointed for a public fast or thanksgiving, in either of such cases the following day shall be considered as the last of such eight days; and if the last of such eight days shall happen to fall on any day between the Thursday before and the Wednesday after Easter day, then in every such case the Wednesday after Easter day shall be considered as the last of such eight days: Provided also, That if such writ shall be served or executed on any day between the tenth day of August and the twenty-fourth day of October in any year, special bail may be put in by the defendant in bailable process, or appearance entered, either by the defendant or the plaintiff, on process not bailable, at the expiration of such eight days: (2) Provided also, That no declaration, or pleading after declaration, shall be filed or delivered between the said tenth day of August and twenty-fourth day of October. (3)

Proceedings on writs served or executed at certain times.

Proviso for Sunday, &c.

XII. That every writ issued by authority of this act shall bear date on the day on which the same shall be issued, and shall be tested (4) in the name of the lord chief justice or lord chief baron of the court from which the same shall issue, or in case of a vacancy of such office, then in the name of a senior puisne judge of the said court, and shall be indorsed with the name and place of abode of the attorney (5) actually suing out the same, and in case such attorney shall not be an attorney of the court in which the same is sued out, then also with the name and place of abode of the attorney of such court in whose name such writ shall be taken out; but in case no attorney shall be employed for that purpose, then with a memorandum expressing that the same has been

Date and teste of writs.

Indorsement of the name of the attorney or party suing.

(1) The court will not permit process to be served at the house of the agent of a defendant who is out of the jurisdiction, in order to save the statute of limitations; but the plaintiff must proceed according to the above provision; *Frith v. Lord Donegal*, 2 Dowl. 527. If the first writ be a summons, all the continued writs must, it seems, be also *alias* or *pluries* writs of summons, and not writs of *capias*, and so *vice versa*. The court it would appear, will allow the continuance to be amended. See *Taylor v. Gregory*, 2 B. & Ad. 257, and also the writ itself if only voidable and not void. See further *Chitty's Arch.* 4th ed. p. 792-4.

A writ issued to save the statute of limitations may be returned *non est inventus*, and other writs issued upon it though the defendant is to be found and may be served, but the expense of such of the writs as are unnecessarily issued, will not be allowed to the plaintiff; *Williams v. Roberts*, 3 Dowl. 512; the circumstance that the statute has run since the debt accrued, is no ground for setting aside the plaintiff's proceedings; but the matter must be pleaded; *Potter v. Macdonnell*, Id. 583.

(2) A defendant arrested within the above interval must put in and justify bail before a judge at chambers in the same way as in any other part in the vacation; *Rex v. Sheriff of Middlesex*, 4 Tyr. 60; 2 C. & M. 333; 2 Dowl. 286.

(3) The exigent in proceedings to outlawry is not a writ within the meaning of this clause; *Lewis v. Davison*, 1 Cr. M. & R. 655; 3 Dowl. 272.

(4) It is not enough that a day is indorsed on the writ; *Hasker v. Jurmaine*, 1 C. & M. 408; 1 Dowl. 654.

(5) If the attorney be one of a firm, it is best to indorse the name of the firm. A description of the attorney's abode as of "Ely Place;" *Englehart v. Edwards*, *Chitty's Arch.* 4th ed. 124; or of "Gray's Inn, London;" *Englehart v. Eyre*, 2 Dowl. 145; or "Gray's Inn Square, London," is sufficient; *King v. Monkhouse*, 2 Dowl. 221; 2 C. & M. 314.

No. IV.
2 W. 4, c. 39.

Service of writs of summons on corporations and on inhabitants of hundreds and towns.

General rules to be made by the judges.

Rules and orders may be made for the return of writs

Proceedings in default of appearance or special bail.

Attorney to declare whether writ issued by his authority; and to declare name and place of abode of his client, if ordered.

If writ not issued by authority of the attorney, the defendant may be discharged.

Rules to be made by the courts for the government of their ministers and officers.

Proviso for persons privileged from arrest, &c.

sued out by the plaintiff in person, mentioning the city, town, or parish, and also the name of the hamlet, street, and number of the house of such plaintiff's residence, if any such there be.

XIII. That every such writ of summons issued against a corporation aggregate may be served on the mayor or other head officer, or on the town clerk, clerk, treasurer, or secretary of such corporation; and every such writ issued against the inhabitants of a hundred or other like district may be served on the high constable thereof, or any one of the high constables thereof; and every such writ issued against the inhabitants of any county of any city or town, or the inhabitants of any franchise, liberty, city, town, or place not being part of a hundred or other like district, on some peace officer thereof.

XIV. That it shall and may be lawful to and for the judges of the said courts, and they are required, from time to time to make all such general rules and orders for the effectual execution of this act, and of the intention and object hereof, and for fixing the costs to be allowed for and in respect of the matters herein contained, and the performance thereof, as in their judgment shall be deemed necessary or proper, and for that purpose to meet as soon as conveniently may be after the passing hereof (1)

XV. That it shall be lawful, in term time, for the court out of which any writ issued by authority of this act, or any writ of *capias ad satisfaciendum*, *feri facias*, or *elegit*, shall have issued, to make rules, and also for any judge of either of the said courts, in vacation, to make orders, for the return of any such writ; and every such order shall be of the same force and effect as a rule of court made for the like purpose; provided always, that no attachment shall issue for disobedience thereof until the same shall have been made a rule of court.

XVI. That all such proceedings as are mentioned in any writ, notice, or warning issued under this act, shall and may be had and taken in default of a defendant's appearance or putting in special bail, as the case may be.

XVII. That every attorney whose name shall be indorsed on any writ issued by authority of this act shall, on demand in writing made by or on behalf of any defendant, declare forthwith whether such writ has been issued by him, or with his authority or privity; and if he shall answer in the affirmative, then he shall also, in case the court or any judge of the same or of any other court shall so order and direct, declare in writing, within a time to be allowed by such court or judge, the profession, occupation, or quality, and place of abode of the plaintiff, on pain of being guilty of a contempt of the court from which such writ shall have appear to have been issued; and if such attorney shall declare that the writ was not issued by him, or with his authority or privity, the said court, or any judge of either of the said courts, shall and may, if it shall appear reasonable so to do, make an order for the immediate discharge of any defendant or defendants who may have been arrested on any such writ, on entering a common appearance. (2)

XVIII. That it shall and may be lawful to and for the judges of each of the said courts from time to time to make such rules and orders for the government and conduct of the ministers and officers of their respective courts, in and relating to the distribution and performance of the duties and business to be done and performed in the execution of this act, as such judges may think fit and reasonable; provided always, that no additional charge be thereby imposed on the suitors.

XIX. Provided always, That nothing in this act contained shall

(1) A variety of rules of court were made in pursuance of this section in Michaelmas term, 3 W. 4.

(2) Where an attorney gives a false residence of his client without using proper means to ascertain whether it is correct or not, he subjects himself to the costs which may be occasioned by moving for an attachment against him, but he is not liable to pay the costs of the action, if he is *bona fide* unable, after proper enquiry, to give his client's residence; *Neal v. Holden*, 3 Dowl. 493.

subject any person to arrest, outlawry, or waiver, who, by reason of any privilege, usage, or otherwise, may now by law be exempt therefrom, or 2 W. 4, c. 39. No. IV. shall extend to any cause removed into either of the said courts by writ of pone, certiorari, recordari, facias loquelam, habeas corpus, or otherwise. (1)

XX. And whereas there are in divers parts of England certain districts and places, parcel of some one county, but wholly situate within and surrounded by some other county, which is productive of inconvenience and delay in the service and execution of the process of the said courts; for remedy thereof be it enacted, That every such district and place shall and may, for the purpose of the service and execution of every writ and process, whether mesne or judicial, issued out of either of the said courts, be deemed and taken to be part as well of the county wherein such district or place is so situate as aforesaid as of the county whereof the same is parcel; and every such writ and process may be directed accordingly, and executed in either of such counties.

XXI. That from the time when this act shall commence and take effect, the writs herein-before authorized shall be the only writs for the commencement of personal actions in any of the courts aforesaid, in the cases to which such writs are applicable; and the costs to be allowed and charged for such writs shall be the same as for writs of latitat: Provided always, That nothing in this act contained shall abridge, alter, or affect the franchises and jurisdictions of either of the counties palatine of Lancaster (2) or Durham, or of any officer or minister thereof.

XXII. That this act shall commence and take effect on the first day of Michaelmas term next after the passing hereof.

SCHEDULE to which this Act refers.

No. 1.

Writ of Summons.

WILLIAM the Fourth, &c.

To C. D. of, &c., in the county of greeting:

We command you, [or as before or often we have commanded you,] that within eight days after the service of this writ on you, inclusive of the day of such service, you do cause an appearance to be entered for you in our court of , in an action on promises [or as the case may be], at the suit of A. B. And take notice, that, in default of your so doing, the said A. B. may cause an appearance to be entered for you, and proceed therein to judgment and execution.

Witness at Westminster the day of

Memorandum to be subscribed on the Writ.

N. B. This writ is to be served within four calendar months from the date thereof, including the day of such date, and not afterwards.

Indorsement to be made on the Writ before Service thereof.

This writ was issued by E. F. of attorney for the said A. B.

Or,

This writ was issued in person by A. B. who resides at [mention the city, town, or parish, and also the name of the hamlet, street, and number of the house of the plaintiff's residence, if any such.]

(1) This statute applies only to actions commenced in the superior courts at Westminster.

(2) See the act for improving the practice in the common pleas at Lancaster, post, Part IV. Class 16.

Indorsement to be made on the Writ after Service thereof.

This writ was served by me X. Y. on _____ on
the _____ day of _____ 18_____
X. Y.

Forms of entering an Appearance.

A. Plaintiff, against C.D.
or,
against C.D. and another,
or,
against C.D. and others.

The defendant C.D. appears in person.
B.F. attorney for C.D. appears for him.
G.H. attorney for the plaintiff, appears for the
defendant C.D. according to the statute.

Entered the day of 18 .

Writ of Distringas.

WILLIAM the Fourth, etc.

To the sheriff of _____ greeting :
We command you, that you omit not by reason of any liberty in your bailiwick, but that you enter the same, and distrain upon the goods and chattels of *C. D.* for the sum of forty shillings, in order to compel his appearance in our court of _____ to answer *A. B.* in a plea of trespass on the case [*or debt, or as the case may be*]; and how you shall execute this our writ you make known to us in our said court on the day of _____ now next ensuing.

Witness at Westminster the day of
in the year of our reign.

Notice to be subscribed to the foregoing Writ.

In the court of

Between { *A. B. Plaintiff*
 and
 C. D. Defendant.

Mr. C. D.

Take notice, that I have this day distrained upon your goods and chattels in the sum of forty shillings, in consequence of your not having appeared in the said court to answer to the said *A. B.*, according to the exigency of a writ of summons bearing teste on the day of _____; and that in default of your appearance to the present writ within eight days inclusive after the return hereof, the said *A. B.* will cause an appearance to be entered for you, and proceed thereon to judgment and execution, or [if the defendant be subject to outlawry] will cause proceedings to be taken to outlaw you.

Writ of Capias.

WILLIAM the Fourth, &c.

To the sheriff of

or,

To the constable of Dover Castle,

or,

To the mayor and bailiffs of Berwick upon Tweed.

or,

greeting :

We command you {or as before or often, we have commanded you},

that you omit not by reason of any liberty in your bailiwick, but that you enter the same, and take *C. D.* of _____ if he shall be found in your bailiwick, and him safely keep until he shall have given you bail or made deposit with you according to law in an action on promises [or of debt, *etc.*], at the suit of *A. B.*, or until the said *C. D.* shall by other lawful means be discharged from your custody. And we do further command you, that on execution hereof you do deliver a copy hereof to the said *C. D.* And we hereby require the said *C. D.* to take notice, that within eight days after execution hereof on him, inclusive of the day of such execution, he should cause special bail to be put in for him in our court of _____ to the said action, and that in default of his so doing such proceedings may be had and taken as are mentioned in the warning hereunder written or indorsed hereon. And we do further command you the said sheriff, that immediately after the execution hereof you do return this writ to our said court, together with the manner in which you shall have executed the same, and the day of the execution hereof; or that if the same shall remain unexecuted, then that you do so return the same at the expiration of four calendar months from the date hereof, or sooner if you shall be thereto required by order of the said court or by any judge thereof.

Witness _____ at Westminster the _____ day of _____

Memoranda to be subscribed to the Writ.

N. B. This writ is to be executed within four calendar months from the date thereof, including the day of such date, and not afterwards.

A Warning to the Defendant.

1. If a defendant, being in custody, shall be detained on this writ, or if a defendant, being arrested thereon, shall go to prison for want of bail, the plaintiff may declare against any such defendant before the end of the term next after such detainer or arrest, and proceed thereon to judgment and execution.

2. If a defendant, being arrested on this writ, shall have made a deposit of money according to the statute 7 & 8 G. 4, c. 71, and shall omit to enter a common appearance to the action, the plaintiff will be at liberty to enter a common appearance for the defendant, and proceed thereon to judgment and execution.

3. If a defendant, having given bail on the arrest, shall omit to put in special bail as required, the plaintiff may proceed against the sheriff or on the bail bond.

4. If a defendant, having been served only with this writ, and not arrested thereon, shall not enter a common appearance within eight days after such service, the plaintiff may enter a common appearance for such defendant, and proceed thereon to judgment and execution.

Indorsements to be made on the Writ of Capias.

Bail for £ _____ by affidavit.

Or,

Bail for £ _____ by order of [naming the judge making the order], dated the _____ day of _____

This writ was issued by *E. F.* of _____ attorney for the plaintiff [or plaintiffs] within named.

Or,

This writ was issued in person by the plaintiff within named, who resides at _____ [mention the city, town, or parish, and also

No. IV.

2 W. 4, c. 39.

the name of the hamlet, street, and number of the house of the plaintiff's residence, if any such there be.]

No. 5.

Writ of Detainer.

WILLIAM the Fourth, etc.

To the Marshal of the Marshalsea of Our Court before Us [or To the Warden of our Prison of the Fleet].

We command you, that you detain C. D. if he shall be found in your custody at the delivery hereof to you, and him safely keep in an action on promises [or of debt, etc., as the case may be], at the suit of A. B., until he shall be lawfully discharged from your custody. And we do further command you, that on receipt hereof you do warn the said C. D., by serving a copy hereof on him, that within eight days after service of such copy, inclusive of the day of such service, he do cause special bail to be put in for him in our court of _____ to the said action; and that in default of his so doing the said A. B. may declare against him before the end of the term next after his detainer, and proceed thereon to judgment and execution. And we do further command you the said [marshal or warden, as the case may be], that immediately after the service hereof you do return this our writ, or a copy hereof, to our said court, together with the day of the service hereof.

Witness

at Westminster the

day of

N. B.—*This Writ is to be indorsed in the same Manner as the Writ of Capias, but not to contain the Warning on that Writ.*

[No. V.] 2 W. 4. c. 43.—An Act to continue until the First day of March 1836, an Act of the Ninth Year of His late Majesty for the Relief of Insolvent Debtors in India.

[No. VI.] 2 W. IV. c. 44.—An Act to continue for Three Years, and to amend the Laws for the Relief of Insolvent Debtors in England. [6th June 1832.]

7 G. 4, c. 57.

1 W. 4, c. 38.

Recited acts continued.

Assignees not required to execute counterpart of conveyances, but provisional assignees to execute them in duplicate.

WHEREAS an act was passed in the seventh year of his late Majesty king George the Fourth, intituled *An Act to amend and consolidate the Laws for the Relief of Insolvent Debtors in England*: And whereas a certain other act was passed in the first year of his present Majesty, intituled *An Act to continue and amend the Laws for the Relief of Insolvent Debtors in England*, whereby, amongst other things thereby enacted, the said first-mentioned act was continued for a certain time therein mentioned: and whereas it is expedient to continue the said acts; be it therefore enacted by &c., that the said acts shall be and the same are hereby continued.

II. And whereas it is by the said first-recited act enacted, that a counterpart of every conveyance and assignment by the provisional assignee of the court for relief of insolvent debtors to the other assignees therein mentioned, shall be filed of record in the said court: and whereas the requiring such counterpart has been productive of delay and inconvenience; be it therefore enacted, That from and after the passing of this act the said assignees shall not be required to execute

such counterpart as aforesaid, but that in lieu thereof the said provisional assignee shall execute every such conveyance and assignment as afore-
 said in duplicate, and that one part of such conveyance and assignment
 so executed by such provisional assignee shall be filed of record in the
 said court; and that a copy of any such record so made and so purport-
 ing to be certified and sealed as by the said first-recited act is directed
 for evidence of the records therein mentioned in that behalf, shall be
 recognized and received as sufficient evidence of such conveyance and
 assignment so to be executed as aforesaid, and of title under the same,
 as fully and effectually in every respect as the said records are required
 to be recognized and received by the provisions of the said first-recited
 act, to all intents and purposes.

No. VI.
 2 W. 4. c. 44.

III. That the said court shall and may, from time to time as occasion
 shall require, appoint examiners for the purposes of the said recited acts
 and of this act within the counties of Middlesex and Surrey, and the
 city of London and borough of Southwark, as well as within the other
 parts of England, as directed by the said first-recited act; and that the
 said court may order references in pursuance of the said recited acts to
 be made to any such examiner, or to an officer of the said court, as shall
 appear most expedient; and that all things shall and may be done in
 pursuance of a reference made to such examiner as may be done in pur-
 suance of a reference to an officer of the said court according to the pro-
 visions of the said first-recited act.

Examiners may
 be appointed in
 London as well
 as in the
 county.

V. That the said recited acts and this act shall continue in force
 until the first day of June one thousand eight hundred and thirty-five,
 and from thence until the end of the then next session of parliament.

[No. VII.] 3 & 4 W. IV. c. 67.—An Act to amend an Act
 of the Second Year of His present Majesty, for the Uni-
 formity of Process in Personal Actions in His Majesty's
 Courts of Law at Westminster. [28th August 1833.]

WHEREAS by an act passed in the second year of his Majesty's reign
 intituled *An Act for Uniformity of Process in Personal Actions in His
 Majesty's Courts of Law at Westminster*, it is enacted, that the process
 in certain actions therein mentioned shall be according to the form con-
 tained in a schedule to the said act annexed, and shall be called a writ
 of summons, and that such writ shall be issued by the officer of the said
 courts respectively by whom process serviceable in the county therein
 mentioned hath been heretofore issued from such court: and whereas
 since the commencement of the said act the writ of summons, and other
 writs mentioned therein, issued into the county of Middlesex, have been
 issued, signed, and sealed by the signer of the bills of Middlesex in the
 king's bench, whilst such writs into all other counties and cities have
 been issued and signed by a different officer, and have been sealed by
 the sealer of the writs, under and by virtue of an order of the judges of
 the said court: and whereas it is expedient that all writs issued into the
 county of Middlesex from the court of king's bench should be signed
 and sealed by the same persons and in like manner as all other writs
 issued from the said court into other counties and cities: be it therefore
 enacted, &c., That so much of the said act passed in the second year of
 his Majesty's reign as provides that the writ of summons therein men-
 tioned shall be issued by the officer of the said courts respectively by
 whom process serviceable in the county therein mentioned hath been
 heretofore issued from such court, shall be and the same is hereby re-
 pealed: and that from and after the passing of this act, all writs of sum-
 mons, distin-

2 W. 4. c. 39.

Part of recited
 act repealed.

Writs of sum-
 mons, distin-

No. VII.
3 & 4 W. 4,
c. 67.

gas, &c. issued
into Middlesex,
to be signed
and fees accounted
for in like manner
as writs under
recited act.
Teste and re-
turn of certain
writs.

mons, distringas, capias, and detainer, issued into the county of Middlesex from the court of king's bench, shall be signed, sealed, and issued, and the fees thereon shall be taken and accounted for, by the same person or persons and in like manner as all other writs of summons, distringas, capias, or detainer, issued from the said court of king's bench, under and by virtue of the said recited act; any law, custom, or usage to the contrary notwithstanding.

II. And whereas by the existing law, and the practice of the said courts of common law, actions may be brought and issues proceed to trial and final judgment, in vacation, notwithstanding the cause of action may have arisen subsequent to the then preceding term, and jury process of writs of execution are now by law tested in term time only; be it therefore enacted, That from and after the passing of this act the writ of venire facias juratores may be tested on the day on which the same shall be issued, and be made returnable forthwith, and that the writ of distringas juratores or habeas corpora juratorum may be tested in term or vacation on a day subsequent to the teste of the writ venire facias juratores, and that all writs of execution may be tested on the day which the same are issued, and be made returnable immediately after execution thereof: provided always, that when any trial is to be had at bar, the writ of venire facias juratores shall be made returnable as heretofore.

[No. VIII.] 4 & 5 W. IV. c. 56.—An Act to continue for One Year, and from thence to the End of the then next Session of Parliament, the Acts for the Relief of Insolvent Debtors in Ireland. [13th August 1834.]

1 & 2 G. 4.
c. 59.

WHEREAS an act was passed in the session of parliament holden in the first and second years of the reign of his late Majesty king George the fourth, intituled *An Act for the Relief of Insolvent Debtors in Ireland*, to continue in force for a certain time therein limited; and the said act was amended by another act passed in the third year of the same reign; and both the said acts were continued by another act made in the seventh and eighth years of the same reign: And whereas another act was made in the tenth year of the same reign, whereby the said recited acts of the first and second and third years of the same reign were amended and further continued; and the same, so amended, were by an act made in the first year of his present Majesty's reign further continued; and the same, so amended, were by another act made in the second year of his present Majesty's reign further continued until the end of this present session of parliament: And whereas by an act made in the first and second years of the reign of his present Majesty, intituled *An Act to improve the Administration of Justice in Ireland*, certain provisions of the said recited act of the first and second years of the reign of his late Majesty were repealed, and certain other provisions were made, and certain persons declared, in certain cases therein specified, to be entitled to the benefit of the acts for the relief of insolvent debtors in Ireland: And whereas it is expedient that the said acts for the relief of insolvent debtors should be further continued: Be it therefore enacted, &c. That the said recited act of the first and second years of the reign of his late Majesty, as the same is amended by the said recited acts of the third and tenth years of the same reign, and save and except as any provisions thereof may be repealed, or other provisions substituted therefore, by the said recited act of the first and second years of his present Majesty's reign, shall be continued; and the said recited acts of the first and second, third, and tenth years of the reign of his late Majesty, and such parts of the said recited act of the first and second year of the reign of

1 & 2 W. 4,
c. 31.

Recited acts
continued in
force for one
year.

his present Majesty as relates to the law for the relief of insolvent debtors, shall be and the same are hereby continued accordingly for one year from the passing of this act, and until the end of the then next session of parliament.

No. VIII.
3 & 4 W. 4,
c. 56.

[No. IX.] 4 & 5 W. IV. c. 79.—An Act to amend the Law relating to Insolvent Debtors in India.

[14th August 1834.]

[No. X.] 5 & 6 W. IV. c. 70.—An Act for abolishing, in Scotland, Imprisonment for Civil Debts of small Amount.

[9th September 1835.]

WHEREAS his Majesty was pleased, by letters patent bearing date on the sixth day of June one thousand eight hundred and thirty-three, under the great seal appointed by the treaty of union to be kept and made use of in place of the great seal of Scotland, to appoint certain commissioners with instructions to inquire, *inter alia*, "as to the present form of enforcing judicial decrees by the diligence of horning and caption and imprisonment, and the expediency of any alteration in the law or forms touching such proceedings:" And whereas the said commissioners have made a report, from which it appears that great hardship is frequently suffered by poor persons in consequence of imprisonment for civil debts to a small amount, without producing thereby any adequate benefit to their creditors: And whereas it is expedient that a remedy should be provided: Be it therefore enacted, &c. That from and after the first day of January one thousand eight hundred and thirty-six it shall not be lawful to imprison any person or persons on account of any civil debt which shall not exceed the sum of eight pounds six shillings and eight-pence sterling, exclusive of interest and expences thereon: Provided that it shall be lawful to imprison debtors on debts incurred or which may become due under contracts made before the passing of this act in like manner as if this act had not been passed; provided always, that imprisonment for such debts shall commence before the first day of January one thousand eight hundred and forty.

No person to be imprisoned for a debt not exceeding 8l. 6s. 8d.

II. That from and after the first day of January one thousand eight hundred and thirty-six it shall not be lawful for any magistrate, or keeper of a prison, or other officer having the charge of any prison, in Scotland, to receive into such prison, or for any messenger at arms or other officer of the law to apprehend or detain in custody the person of any debtor or alleged debtor for a civil debt of an amount not exceeding eight pounds six shillings and eight-pence sterling, exclusive of interest and expences thereon, in virtue of letters of caption, act of warding, decree of a small debt court, or other warrant, unless in the case of debts contracted before the passing of this act as aforesaid.

After 1st Jan. 1836 gaolers not to receive into their custody any person for a debt not above 8l. 6s. 8d.

III. That on application made to the sheriff of the county in which the prison shall be situated, or to the magistrates having charge of any prison, by any prisoner incarcerated therein, showing that he is imprisoned or detained in gaol for a civil debt or debts contrary to the provisions of this act, such sheriff or magistrates shall cause intimation to be made to the incarcerating creditor or creditors, upon induciæ of six days after intimation; and on being satisfied that the statement of the prisoner is consistent with truth, such sheriff or magistrates shall without delay grant warrant for his liberation in so far as regards the debt due to such creditor.

Sheriff or magistrates may direct the discharge of any person imprisoned for a less amount.

No. X.
5 & 6 W. 4,
c. 70.

Persons not to
acquire debts
under sum be-
fore specified,
except by marriage

Not to affect
recovery of
fines or for-
feitures.

IV. That it shall not be lawful for any person to acquire from third parties, by assignation or otherwise, except by marriage or inheritance, one or more civil debts of or below the amount of eight pounds six shillings and eight-pence sterling, against any one individual, to the effect of accumulating such debts into one decree or warrant or writ, or of adding the same to debts previously due to him of or below the said amount, for the purpose of defeating this act, by imprisoning the debtor for such accumulated debts.

V. That nothing in this act contained shall affect obligations *ad facta præstanda*, or the right of his Majesty or his officers, or the fiscals of courts of law, or others, to imprison as formerly, or on account of taxes or penalties due to the revenue, or on account of any fines or forfeitures imposed or hereafter to be imposed by law, or apply to imprisonment for poor rates or local taxation, or to imprisonment for sums decerned for aliment.

PART IV.

CLASS IV.

OUTLAWRY

[No. I.] 2 W. IV. c. 39.—An Act for Uniformity of Process in Personal Actions in His Majesty's Courts of Law at Westminster. [23rd May 1832.]

V. That upon the return of non est inventus (1) as to any defendant Proceedings to against whom such writ of capias shall have been issued, and also upon outlawry. the return of non est inventus and nulla bona as to any defendant against whom such writ of distringas as herein-before mentioned shall have issued whether such writ of capias or distringas shall have issued against such defendant only, or against such defendant and any other person or persons, it shall be lawful, until otherwise provided for, to proceed to outlaw or waive such defendant by writs of *exigi facias* and proclamation, and otherwise, in such and the same manner as may now be lawfully done upon the return of non est inventus to a pluries writ of capias ad respondendum issued after an original writ: provided always, that every such writ of exigent proclamation, and other writ subsequent to the writ of capias or distringas, shall be made returnable on a day certain in term; and every such first writ of exigent and proclamation shall bear teste on the day of the return of the writ of capias or distringas, whether such writ be returned in term or in vacation; and every subsequent writ of exigent and proclamation shall bear teste on the day of the return of the next preceding writ; and no such writ of capias or distringas shall be sufficient for the purpose of outlawry or waiver if the same be returned within less than fifteen days after the delivery thereof to the sheriff or other officer to whom the same shall be directed.

VI. That after judgment given in any action commenced by writ of Proceedings to summons or capias under the authority of this act, proceedings to outlawry may be had and taken, and judgment of outlawry or judgment given waiver given, in such manner and in such cases as may now be lawfully done after judgment in an action commenced by original writ: provided always, that every outlawry or waiver had under the authority of this act shall and may be vacated or set aside by writ of error or motion, in like manner as outlawry or waiver founded on an original writ may now be vacated or set aside.

VII. That for the purpose of proceeding to outlawry and waiver upon Filazer to be such writs of capias or distringas returnable in the court of exchequer, appointed in it shall and may be lawful for the lord chief baron of the said court, and the court of he is hereby required to appoint from time to time a fit person, holding exchequer. some other office in the said court, to execute the duties of a Filazer, exigenter, and clerk of the outlawries in the same court.

(1) Where the plaintiff's attorney knew the defendant's attorney, and delivered a *capias* to the sheriff, with directions to return the same *non est inventus*, the court thought this proceeding, without making any application to the defendant's attorney, was an abuse of the process of the court, and made a rule absolute for setting aside the outlawry with costs; *Pijou v. Drummond*, 1 Bing. N. C. 354.

PART IV.

CLASS V.

PROCEEDINGS AGAINST PERSONS HAVING PRIVILEGE
OF PARLIAMENT.

[No. I.] 2 W. IV. c. 39.—An Act for Uniformity of Process in Personal Actions in His Majesty's Courts of Law at Westminster.

Mode of proceeding against a member of parliament to enforce the statute 6 G. 4, c. 16, s. 10.

IX. That in all such actions wherein it shall be intended to proceed against a member of parliament according to the provisions of the said statute made in the sixth (1) year of the reign of his late Majesty king George the Fourth, the process shall be according to the form contained in the said schedule marked No. 6, and which process and a copy thereof shall be in lieu of the summons, or original bill and summons, and copy thereof, mentioned in the said statute (2).

SCHEDULE.

No. 6.

Writ of Summons to be served on a Member of Parliament in order to enforce the Provisions of the Statute 6 G. 4, c. 16, s. 10.

WILLIAM the fourth, etc.

To C. D. of, etc.

greeting :

esquire, having privilege of parliament,

We command you, that within one calendar month next after personal service hereof on you, you do cause an appearance to be entered for you in our court of in an action [on promises, debt, etc. as the case may be], at the suit of A. B.; and you are hereby informed, that an affidavit of debt for the sum of hath been filed in the proper office, according to the provisions of a certain act of parliament made and passed in the sixth year of the reign of his late Majesty king George the fourth, intituled *An Act to amend the Laws relating to Bankrupts*, and that unless you pay, secure, or compound for the debt sought to be recovered in this action, or enter into such bond as by the said act is provided, and cause an appearance to be entered for you, within one calendar month next after such service hereof, you will be deemed to have committed an act of bankruptcy from the time of the service hereof.

Witness

at Westminster the

day of

N. B.—This writ is to be served within four calendar months from the date thereof, including the day of such date, and not afterwards.

Direction.—*This Summons is to be indorsed with the Name of the Plaintiff or his Attorney in like Manner as the Writ of Capias.*

(1) See this act, *Evans's Statutes, Part IV, Class 28, Bankrupts.*

(2) Where a person having privilege of parliament was sued by bill and summons before this act passed, and after the commencement of the action lost his privilege, it was held the process should be continued by *distringas*, treating him as an M. P., in order to avoid the statute of limitations; *Taylor v. Duncombe*, 2 Dowl. P. C. 401.

PART IV.

CLASS VI.

PLEADINGS AND OTHER PROCEEDINGS PREVIOUS TO TRIAL.

[Under the powers given by the 1 W. 4, c. 70, s. 11. (see *ante*, p. 419), the judges of the courts of common law at Westminster issued a rule of court of Hilary term, 1 W. 4, directing, that if declarations in assumpsit or debt (for which assumpsit would lie) upon bills of exchange, promissory notes, and the counts usually called the money counts, shall exceed in length, such of the forms set forth in the schedule annexed to such rule as may be applicable to the case, no costs of the excess shall be allowed to the plaintiff if he succeeds in the cause; and such costs of the excess as have been incurred by the defendant shall be taken and allowed to the defendant, and be deducted from the costs allowed to the plaintiff.]

[No. I.] 3 & 4 W. IV. c. 42.—An Act for the further Amendment of the Law, and the better Advancement of Justice.

[14th August 1833.]

WHEREAS it would greatly contribute to the diminishing of expence in suits in the superior courts of common law at Westminster if the pleadings therein were in some respects altered, and the questions to be tried by the jury left less at large than they now are according to the course and practice of pleading in several forms of action; but this cannot be conveniently done otherwise than by rules or orders of the judges of the said courts from time to time to be made, and doubts may arise as to the power of the said judges to make such alterations without the authority of parliament: Be it therefore enacted, &c., That the judges of the said superior courts, or any eight or more of them, of whom the chiefs of each of the said courts shall be three, shall and may by any rule or order to be from time to time by them made, in term or vacation, at any time within five years from the time when this act shall take effect, make such alterations in the mode of pleading in the said courts, and in the mode of entering and transcribing pleadings, judgments, and other proceedings in actions at law, and such regulations as to the payment of costs, and otherwise for carrying into effect the said alterations, as to them may seem expedient; and all such rules, orders, or regulations shall be laid before both houses of parliament, if parliament be then sitting, immediately upon the making of the same, or if parliament be not sitting, then within five days after the next meeting thereof, and no such rule, order, or regulation shall have effect until six weeks after the same shall have been so laid before both houses of parliament; and any rule or order so made shall, from and after such time aforesaid, be binding and obligatory on the said courts, and all other courts of common law, and on all courts of error into which the judg-

Judges to have power to make alterations in the mode of pleading in the said superior courts, &c. (1).

(1) Under the authority of this clause a variety of rules were made by the judges in Hilary term, 4 W. 4, 1834, which came into operation on the first day of the ensuing Easter term, whereby extensive alterations have been introduced into the mode of pleading in the courts of common law at Westminster.

Not to deprive any person of the power of pleading the general issue. Restriction as to plea in abatement for non-joinder of a co-defendant.

Reply of plaintiff to plea in abatement of nonjoinder.

Provision in the case of subsequent proceedings against the persons named in a plea in abatement.

Misnomer not to be pleaded in abatement.

Initials of names may be used in some cases.

Pleadings and other Proceedings previous to Trial. [Part IV.]

ments of the said courts or any of them shall be carried by any writ of error, and be of the like force and effect as if the provisions contained therein had been expressly enacted by parliament: Provided always, That no such rule or order shall have the effect of depriving any person of the power of pleading the general issue, and giving the special matter in evidence, in any case wherein he is now or hereafter shall be entitled to do so by virtue of any act of parliament now or hereafter to be in force.

VIII. That no plea in abatement for the nonjoinder of any person as a co-defendant shall be allowed in any court of common law unless it shall be stated in such plea that such person is resident within the jurisdiction of the court, and unless the place of residence of such person shall be stated with convenient certainty in an affidavit verifying such plea. (1)

IX. That to any plea in abatement in any court of law of the nonjoinder of another person, the plaintiff may reply that such person has been discharged by bankruptcy and certificate, or under an act for the relief of insolvent debtors. (2)

X. That in all cases in which after such plea in abatement the plaintiff shall, without having proceeded to trial upon an issue thereon, commence another action against the defendant or defendants in the action in which such plea in abatement shall have been pleaded, and the person or persons named in such plea in abatement as joint contractors, if it shall appear by the pleadings in such subsequent action, or on the evidence at the trial thereof, that all the original defendants are liable, but that one or more of the persons named in such plea in abatement or any subsequent plea in abatement are not liable as a contracting party or parties, the plaintiff shall nevertheless be entitled to judgment, or to a verdict and judgment, as the case may be, against the other defendant or defendants who shall appear to be liable; and every defendant who is not so liable shall have judgment, and shall be entitled to his costs as against the plaintiff, who shall be allowed the same as costs in the cause against the defendant or defendants who shall have so pleaded in abatement the nonjoinder of such person; provided that any such defendant who shall have so pleaded in abatement shall be at liberty on the trial to adduce evidence of the liability of the defendants named by him in such plea in abatement.

XI. That no plea in abatement for a misnomer shall be allowed in any personal action, but that in all cases in which a misnomer would but for this act have been by law pleadable in abatement in such actions, the defendant shall be at liberty to cause the declaration to be amended, at the costs of the plaintiff, by inserting the right name, upon a judge's summons founded on an affidavit of the right name; and in case such summons shall be discharged, the costs of such application shall be paid by the party applying, if the judge shall think fit. (3)

XII. That in all actions upon bills of exchange or promissory notes, or other written instruments, any of the parties to which are designated by the initial letter or letters or some contraction of the christian or first

(1) See also the Carriers' Act, 11 G. 4. & 1 W. 4. c. 68, s. 5, providing that no action commenced against a proprietor shall abate for not joining any co-partner; *post*, Part IV., Class 14.

(2) It was formerly held, that joint contractors must all be sued, although one had become bankrupt and obtained his certificate, and, if not sued, that the others might plead in abatement; *Bovill v. Wood*, 2 Maule & S. 23.

(3) The plaintiff declared by the name of *William Moody*, and the cause proceeded to issue in that name. It was sworn that the party intended as plaintiff was John Moody; but there appeared to be a William Moody, a son of John, who was connected with the transaction in question. The court refused a rule to amend the proceedings, by inserting the name of John, instead of William, observing, that if the former were really the person originally intended as plaintiff, the misnomer could not be taken advantage of at the trial; *Moody v. Aslatt*, 1 C. M. & R. 771: 3 Dowl. P. C.

name or names, it shall be sufficient in every affidavit to hold to bail, and in the process or declaration, to designate such persons by the same initial letter or letters or contraction of the christian or first name or names, instead of stating the christian or first name or names in full.

No. I.
2 & 3 W. 4,
c. 42.

XIII. That no wager of law shall be hereafter allowed.

to be abolished.

XIV. That an action of debt on simple contract shall be maintainable in any court of common law against any executor or administrator.

Action of debt on simple contract.

XXI. That it shall be lawful for the defendant in all personal actions, (except actions for assault and battery, false imprisonment, libel, slander, malicious arrest or prosecution, criminal conversation or debauching of the plaintiff's daughter or servant,) by leave of any of the said superior courts where such action is pending, or a judge of any of the said superior courts, to pay into court a sum of money by way of compensation or amends, in such manner and under such regulations as to the payment of costs and the form of pleading as the said judges, or such eight or more of them as aforesaid, shall, by any rules or orders by them to be from time to time made, order and direct. (1)

Defendant to be allowed to pay money into court in certain actions by judge's order.

XXII. And whereas unnecessary delay and expence is sometimes occasioned by the trial of local actions in the county where the cause of action has arisen; be it therefore enacted, That in any action depending in any of the said superior courts, the venue in which is by law local, the court in which such action shall be depending, or any judge of any of the said courts, may, on the application of either party, order the issue to be tried, or writ of inquiry to be executed, in any other county or place than that in which the venue is laid; and for that purpose any such court or judge may order a suggestion to be entered on the record, that the trial may be more conveniently had, or writ of inquiry executed, in the county or place where the same is ordered to take place. (2)

Power to direct local actions to be tried in any county.

XXIII. And whereas great expence is often incurred, and delay or failure of justice takes place, at trials, by reason of vacancies as to some particular or particulars between the proof and the record or setting forth, on the record or document on which the trial is had, of contracts, customs, prescriptions, names, and other matters or circumstances not material to the merits of the case, and by the mis-statement of which the opposite party cannot have been prejudiced, and the same cannot in any case be amended at the trial, except where the variance is between any matter in writing or in print produced in evidence and the record: And whereas it is expedient to allow such amendments as herein-after mentioned to be made on the trial of the cause; be it therefore enacted, That it shall be lawful for any court of record, holding plea in civil actions, and any judge sitting at nisi prius, (3) if such court or judge shall see fit so to do, to cause the record, writ, or document on which any trial may be pending before any such court or judge, in any civil action, or in any information in the nature of a quo warranto, or proceedings on a mandamus, when any variance shall appear between the proof and the recital or setting forth, on the record, writ, or document on which the trial is proceeding, of any contract, custom, prescription, name, or other matter, in any particular or particulars in the judgment of such court or judge not material to the merits of the case, and by

Allowing amendments to be made on the record in certain cases.

(1) And see 11 G. 4, & 1 W. 4, c. 68, s. 10, as to payment of money into court in actions brought against carriers, &c. *post*, Part IV., Class 14.

(2) Notwithstanding this clause, it must be satisfactorily made out that an impartial trial cannot be had, to induce the court to interfere to change the venue in a local action; *Briscoe v. Roberts*, 3 Dowl. 434.

(3) This section seems to extend to causes tried before the sheriff; *Hill v. Salt*, 2 Cr. & M. 421, 4 Tyr. 271, 2 Dowl. 380.

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3 & 4 W. 4,
c. 42.

which the opposite party cannot have been prejudiced in the conduct of his action, prosecution, or defence, (1) to be forthwith amended by some officer of the court or otherwise, both in the part of the pleadings where such variance occurs, and in every other part of the pleadings, which it may become necessary to amend, on such terms as to payment of costs to the other party, or postponing the trial to be had before the same or another jury, or both payment of costs and postponement, as such court or judge shall think reasonable; and in case such variance shall be in some particular or particulars in the judgment of such court or judge not material to the merits of the case, but such as that the opposite party may have been prejudiced thereby in the conduct of his action, prosecution, or defence, then such court or judge shall have power to cause the same to be amended upon payment of costs to the other party, and withdrawing the record or postponing the trial as aforesaid, as such court or judge shall think reasonable; and after any such amendment the trial shall proceed, in case the same shall be proceeded with, in the same manner in all respects, both with respect to the liability of witnesses to be indicted for perjury, and otherwise, as if no such variance had appeared; and in case such trial shall be had at nisi prius or by virtue of such writ as aforesaid, the order for the amendment shall be indorsed on the postea or the writ, as the case may be, and returned together with the record or writ, and thereupon such papers, rolls, and other records of the court from which such record or writ issued, as it may be necessary to amend, shall be amended accordingly; and in case the trial shall be had in any court of record, then the order for amendment shall be entered on the roll or other document upon which the trial shall be had; provided that it shall be lawful for any party who is dissatisfied with the decision of such judge at nisi prius, sheriff, or other officer, respecting his allowance of any such amendment, to apply to the court from which such record or writ issued for a new trial upon that ground, and in case any such court shall think such amendment improper, a new trial shall be granted accordingly, on such terms as the court shall think fit, or the court shall make such other order as to them may seem meet. (2)

Power for the
court or judge
to direct the
facts to be
found specially.

XXIV. That the said court or judge shall and may, if they or he think fit, in all such cases of variance, instead of causing the record or document to be amended as aforesaid, direct the jury to find the fact or facts according to the evidence, and thereupon such finding shall be stated on such record or document, and, notwithstanding the finding on the issue joined, the said court or the court from which the record has issued shall, if they shall think the said variance immaterial to the merits of the case, and the mis-statement such as could not have prejudiced the opposite party in the conduct of the action or defence, give judgment according to the very right and justice of the case (3).

(1) Where a general warranty of the soundness of a horse, was declared on, and it was a warranty, "except in one foot," the judge amended the declaration accordingly, the real dispute between the parties being whether the horse was a roarer; *Hemming v. Parry*, 6 Car. & P. 580.

In ejectment for a forfeiture, Parke J. allowed a mis-statement of the parish in the declaration to be amended, it not appearing that the defendant was misled; *Doe d. Marriott v. Edwards*, 6 Carr. & P. 208.

(2) Where a judge at nisi prius refused to amend a declaration in ejectment by altering a joint demise by parties who turned out to be tenants in common into several demises, and nonsuited the plaintiff, a rule obtained for setting aside the nonsuit was discharged by the court, which appears to have intimated that the discretion of a judge at nisi prius with respect to amendments was not to be questioned in bank; *Doe d. Poole v. Errington*, 1 Ad. & El. 750; 3 Nev. & M. 446.

(3) Where in a declaration in case for diverting water, the plaintiff entitled himself the owner of a mill, and it appeared in evidence he was entitled only as owner of lands, the judge at the trial refused to amend under the above section, but indorsed the facts upon the postea under this clause. The court refused to give judgment for the plaintiff upon such indorsement; *Parkinson v. Earl of Falmouth*, 4 N. & M. 330.

XXV. That it shall be lawful for the parties in any action or information, after issue joined, by consent and by order of any of the judges of the said superior courts, to state the facts of the case, in the form of a special case, for the opinion of the court, and to agree that a judgment shall be entered for the plaintiff or defendant, by confession or of nolle prosequi, immediately after the decision of the case, or otherwise as the court may think fit; and judgment shall be entered accordingly.

No. I.

3 & 4 W. 4,
c. 42.

Power to state
a special case
without pro-
ceeding to trial.

PART IV.

CLASS VII.

SET-OFF.

[There has been no recent statute on this subject.]

PART IV.

CLASS VIII.

LIMITATION OF ACTIONS.

[Although previous to this statute to constitute a prescription the enjoyment must have existed from the reign of Richard the first. *Bract. C. 2, c. 22*; 1 *Comm. 75*; 2 *Id. 263*; yet in order to support rights which had been long and peaceably enjoyed, the courts interpreted an enjoyment of even twenty years as presumptive evidence that the right had existed time out of mind, and consequently that period was held a sufficient foundation for establishing a prescriptive right, unless its origin could be proved. 2 *Wils. 23*; *Cowp. 215*; 10 *East, 476*; 2 *Brod. & Bing. 403*. The following act is intended to make that possession a bar or title of itself, which was so before only by the intervention of a jury. *Bright v. Walker, 4 Tyr. 507*; 1 *Cr. M. & R. 217, S. C.*]

[No. I.] 2 & 3 W. IV. c. 71.—An Act for shortening the Time of Prescription in certain Cases (1). [1st August 1832.]

WHEREAS the expression 'Time immemorial, or Time whereof the memory of man runneth not to the contrary,' is now by the law of England in many cases considered to include and denote the whole period of time from the reign of king Richard the first, whereby the title to matters that have been long enjoyed is sometimes defeated by showing the commencement of such enjoyment, which is in many cases productive of inconvenience and injustice; for remedy thereof be it enacted, &c., That no claim which may be lawfully made at the common law, by custom, prescription, or grant, to any right of common or other profit or benefit to be taken and enjoyed from or upon any land of our sovereign lord the king, his heirs or successors, or any land being parcel of the duchy of Lancaster or of the duchy of Cornwall, or of any ecclesiastical or lay person, or body corporate, except such matters and things as are herein specially provided for, and except tithes, rent, and services, shall, where such right, profit, or benefit shall have been actually taken and enjoyed by any person claiming right thereto without interruption for the full period of thirty years, be defeated or destroyed by shewing only that such right, profit, or benefit was first taken or enjoyed at any time prior to such period of thirty years, but nevertheless such claim may be defeated in any other way by which the same is now liable to be defeated; and when such right, profit, or benefit shall have been so taken and enjoyed as aforesaid for the full period of sixty years, the right thereto shall be deemed absolute and indefeasible, unless it shall appear that the same was taken and enjoyed by some consent or agreement expressly made or given for that purpose by deed or writing.

II. That no claim which may be lawfully made at the common law, by custom, prescription, or grant, to any way or other easement, or to

Claims to right of common and other profits à prendre not to be defeated after thirty years' enjoyment by showing the commencement.

After sixty years' enjoyment the right to be absolute, unless had by consent or agreement.

In claims of right of way

(1) For the act shortening the time of prescription in cases of *modus decimandi*; see *ante*, Part II. Class II. *Tithes*.

any watercourse, or the use of any water, to be enjoyed or derived upon, over, or from any land or water of our said lord the king, his heirs or successors, or being parcel of the duchy of Lancaster or of the duchy of Cornwall, or being the property of any ecclesiastical or lay person, or body corporate, when such way or other matter as herein last before mentioned shall have been actually enjoyed by any person claiming right thereto without interruption for the full period of twenty years, (1) shall be defeated or destroyed by shewing only that such way or other matter was first enjoyed at any time prior to such period of twenty years, but nevertheless such claim may be defeated in any other way by which the same is now liable to be defeated; (3) and where such way or other matter as herein last before mentioned shall have been so enjoyed as aforesaid for the full period of forty years, the right thereto shall be deemed absolute and indefeasible, unless it shall appear that the same was enjoyed by some consent or agreement expressly given or made for that purpose by deed or writing.

No. I.
2 & 3 W. 4,
c. 71.

or other ease-
ment the pe-
riods to be
twenty years
and forty years.

III. That when the access and use of light to and for any dwelling-house, workshop, or other building shall have been actually enjoyed therewith for the full period of twenty years without interruption, the right thereto shall be deemed absolute and indefeasible, any local usage or custom to the contrary notwithstanding, unless it shall appear that the same was enjoyed by some consent or agreement expressly made or given for that purpose by deed or writing. (4)

Claim to the
use of light en-
joyed for 20
years indefeasi-
ble, unless
shewn to have
been by con-
sent.

IV. That each of the respective periods of years herein-before mentioned shall be deemed and taken to be the period next before some suit or action wherein the claim or matter to which such period may relate those next before suits for claims to which such periods relate.

Before-men-
tioned periods
to be deemed

(1) Where in trespass *quare clausum fregit* it was pleaded that the occupiers of the adjoining closes had for twenty years, *as of right and without interruption*, used and been accustomed to use the privilege and easement of passing and repassing, &c. and laying down rail-roads across the plaintiff's rail-road, which right was traversed by the replication; it was held, that on this issue the defendants were bound to show an uninterrupted enjoyment, *as of right*, during the twenty years, and that the plaintiff might prove, under such issue, applications by the defendants during that period for leave to cross their rail-road, and that it was not necessary to reply such license specially under the eighth section of this act; *Monmouth Canal Company v. Harford*, 1 C. M. & R. 614.

A plea, if under this statute, of twenty years' use is not defeated by proof of an agreed alteration of the line of the way, or by a temporary non-use under an agreement of the parties; *Payne v. Shedden*, 1 Moo. & Rob. 328.

(3) The assignee of a lease granted for three lives by a bishop in right of his see, used for more than twenty years, without interruption, a way to and from his premises, over a close called "The Acre." The defendant, who was in possession of the Acre, under a similar lease, obstructed the way. In an action in the case for this obstruction it was held that the plaintiff's use conferred no title under the above act as against the reversioner the bishop, or his lessee, or persons claiming under such lessee during the term. *Bright v. Walker*, 4 Tyr. 502, and see 1 C. M. & R. 614.

(4) Previous to the above clause, the acquiescence of lessees or tenants for life in the enjoyment of lights did not bind the landlord or reversioner, unless he knew of such enjoyment and acquiesced for twenty years; and a presumption against the owner of lands was not so easily inferred in the case of lights as in cases of rights of way or common, where the tenant suffered an immediate injury. Thus it was held, that an enjoyment of lights for more than twenty years during the occupation of the opposite premises by a tenant, did not preclude his landlord, who was ignorant of the fact, from disputing the right to such enjoyment, although he would have been bound by twenty years' acquiescence, after having known that the windows were opened; 11 East, 370. So, where light had been enjoyed for more than twenty years contiguous to land, which within that period had been glebe land, but was conveyed to a purchaser under the 56 G. 3. c. 147, it was decided that no action would lie against such purchaser for building, so as to obstruct the lights, inasmuch as the rector, who was tenant for life, could not grant the easement, and therefore no valid grant could be presumed; 4 B. & Ald. 579. See also 2 B. & Cr. 686.

Under the above clause an absolute right to light may be acquired by an enjoyment without interruption for twenty years, as the eighth section of the act (see *post*), providing for possession during particular estates, does not extend to lights.

No. I.

2 & 3 W. 4,
c. 71.

In actions on the case the claimant may allege his right generally, as at present.

In pleas to trespass and other pleadings, where party used to allege his claim from time immemorial, the period mentioned in this act may be alleged; and exceptions or other matters to be replied specially.

Restricting the presumption to be allowed in support of claims herein provided for.

Proviso for infants, &c.

What time to be excluded in computing the term of forty years appointed by this act.

shall have been or shall be brought into question, and that no act or other matter shall be deemed to be an interruption, within the meaning of this statute, unless the same shall have been or shall be submitted to or acquiesced in for one year after the party interrupted shall have had or shall have notice thereof, and of the person making or authorizing the same to be made.

V. That in all actions upon the case and other pleadings, wherein the party claiming may now by law allege his right generally, without averring the existence of such right from time immemorial, such general allegation shall still be deemed sufficient, and if the same shall be denied, all and every the matters in this act mentioned and provided, which shall be applicable to the case, shall be admissible in evidence to sustain or rebut such allegation; and that in all pleadings to actions of trespass, and in all other pleadings wherein before the passing of this act it would have been necessary to allege the right to have existed from time immemorial, it shall be sufficient to allege the enjoyment thereof as of right by the occupiers of the tenement in respect whereof the same is claimed for and during such of the periods mentioned in this act as may be applicable to the case, and without claiming in the name or right of the owner of the fee, as is now usually done; (1) and if the other party shall intend to rely on any proviso, exception, incapacity, disability, contract, agreement, or other matter herein-before mentioned, or on any cause or matter of fact or of law not inconsistent with the simple fact of enjoyment, the same shall be specially alleged and set forth in answer to the allegation of the party claiming, and shall not be received in evidence on any general traverse or denial of such allegation.

VI. That in the several cases mentioned in and provided for by this act, no presumption shall be allowed or made in favour or support of any claim, upon proof of the exercise or enjoyment of the right or matter claimed for any less period of time or number of years than for such period or number mentioned in this act as may be applicable to the case and to the nature of the claim.

VII. Provided also, That the time during which any person otherwise capable of resisting any claim to any of the matters before mentioned shall have been or shall be an infant, idiot, non compos mentis, feme covert, or tenant for life, or during which any action or suit shall have been pending, and which shall have been diligently prosecuted, until abated by the death of any party or parties thereto, shall be excluded in the computation of the periods herein-before mentioned, except only in cases where the right or claim is hereby declared to be absolute and indefeasible.

VIII. Provided always, That when any land or water upon, over, or from which any such way or other convenient watercourse or use of water shall have been or shall be enjoyed or derived hath been or shall be held under or by virtue of any term of life, or any term of years exceeding three years from the granting thereof, the time of the enjoyment of any such way or other matter as herein last before mentioned, during the continuance of such term, shall be excluded in the computation of the said period of forty years, in case the claim shall within three years next after the end or sooner determination of such term be resisted by

(1) Previous to this act a prescription must, in a *que estate*, always have been raised in the owner of the fee. A tenant for life, for years at will, or a copyholder, could not prescribe by reason of the imbecility of their estates; 4 Rep. 31, 32. For as prescription was deemed usage beyond the time of memory, it was absurd that they should pretend to prescribe for any thing whose estates commenced within the memory of man; and therefore the copyholder must have prescribed under cover of his lord's estate, and the tenant for life under cover of the tenant in fee simple; 2 Comm. c. 17.

any person entitled to any reversion expectant on the determination thereof.

No. I.
3 & 4 W. 4,
c. 71.

IX. That this act shall not extend to Scotland or Ireland. Not to extend to Scotland or Ireland.

X. That this act shall commence and take effect on the first day of Michaelmas term now next ensuing.

Commence-
ment of act.

[No. II.] 3 & 4 W. IV. c. 27.—An Act for the Limitation of Actions and Suits relating to Real Property, and for simplifying the Remedies for trying the Rights thereto.

[24th July 1833.]

BE it enacted, &c., That the words and expressions herein-after mentioned, which in their ordinary signification have a more confined or a different meaning, shall in this act, except where the nature of the provision or the context of the act shall exclude such construction, be interpreted as follows; (that is to say,) the word "Land" shall extend to manors, messuages, and all other corporeal hereditaments whatsoever, and also to tithes (other than tithes belonging to a spiritual or eleemosynary corporation sole), and also to any share, estate, or interest in them or any of them, whether the same shall be a freehold or chattel interest, and whether freehold or copyhold, or held according to any other tenure; and the word "Rent" shall extend to all heriots, and to all services and suits for which a distress may be made, and to all annuities and periodical sums of money charged upon or payable out of any land (except moduses or compositions belonging to a spiritual or eleemosynary corporation sole); and the person through whom another person is said to claim shall mean any person by, through, or under, or by the act of whom, the person so claiming became entitled to the estate or interest claimed, as heir, issue in tail, tenant by the curtesy of England, tenant in dower, successor, special or general occupant, executor, administrator, legatee, husband, assignee, appointee, devisee, or otherwise, and also any person who was entitled to an estate or interest to which the person so claiming, or some person through whom he claims, became entitled as lord by escheat; and the word "person" shall extend to a body politic, corporate, or collegiate, and to a class of creditors or other persons, as well as an individual; and every word importing the singular number only shall extend and be applied to several persons or things as well as one person or thing; and every word importing the masculine gender only shall extend and be applied to a female as well as a male.

Meaning of the words in the act.

"Land."

"Rent."

Person through whom another claims.

"Person."

Number and gender.

II. That after the thirty-first day of December one thousand eight hundred and thirty-three no person shall make an entry or distress or bring an action to recover any land or rent but within twenty years next after the time at which the right to make such entry or distress or to bring such action shall have first accrued to some person through whom he claims; or if such right shall not have accrued to any person through whom he claims, then within twenty years next after the time at which the right to make such entry or distress or to bring such action shall have first accrued to the person making or bringing the same.

No land or rent to be recovered but within 20 years after the right of action accrued to the claimant or some person whose estate he claims.

III. That in the construction of this act the right to make an entry or distress or bring an action to recover any land or rent shall be deemed to have first accrued at such time as herein-after is mentioned; (that is to say,) when the person claiming such land or rent, or some person through whom he claims, shall, in respect of the estate or interest claimed have been in possession or in receipt of the profits of such land, or in receipt of such rent, and shall while entitled thereto have been dispos-

When the right shall be deemed to have accrued in the case of an estate in possession;

No. II.
3 & 4 W. 4,
c. 27.

on dispossession;

on abatement
or death;

on alienation;

in case of future
estates;

in case of forfeiture
or breach of condition.

Where advantage of forfeiture is not taken by remainderman, he shall have a new right when his estate comes into possession

Reversioner to have a new right.

essed, or have discontinued such possession or receipt (1), then such right shall be deemed to have first accrued at the time of such disposition or discontinuance of possession, or at the last time at which any such profits or rent were or was so received; and when the person claiming such land or rent shall claim the estate or interest of some deceased person who shall have continued in such possession or receipt in respect of the same estate or interest until the time of his death, and shall have been the last person entitled to such estate or interest who shall have been in such possession or receipt, then such right shall be deemed to have first accrued at the time of such death; and when the person claiming such land or rent shall claim in respect of an estate or interest in possession granted, appointed, or otherwise assured by any instrument (other than a will) to him, or some person through whom he claims, by a person being in respect of the same estate or interest in the possession or receipt of the profits of the land, or in the receipt of the rent, and no person entitled under such instrument shall have been in such possession or receipt, then such right shall be deemed to have first accrued at the time at which the person claiming as aforesaid, or the person through whom he claims, became entitled to such possession or receipt by virtue of such instrument; and when the estate or interest claimed shall have been an estate or interest in reversion or remainder, or other future estate or interest, and no person shall have obtained the possession or receipt of the profits of such land or the receipt of such rent in respect of such estate or interest, then such right shall be deemed to have first accrued at the time at which such estate or interest became an estate or interest in possession; and when the person claiming such land or rent, or the person through whom he claims, shall have become entitled by reason of any forfeiture or breach of condition, then such right shall be deemed to have first accrued when such forfeiture was incurred or such condition was broken.

IV. Provided always, that when any right to make an entry or distress or to bring an action to recover any land or rent by reason of any forfeiture or breach of condition shall have first accrued in respect of any estate or interest in reversion or remainder, and the land or rent shall not have been recovered by virtue of such right, the right to make an entry or distress or bring an action to recover such land or rent shall be deemed to have first accrued in respect of such estate or interest at the time when the same shall have become an estate or interest in possession, as if no such forfeiture or breach of condition had happened (2).

V. Provided also, That a right to make an entry or distress or bring an action to recover any land or rent shall be deemed to have first accrued, in respect of an estate or interest in reversion, at the time at which the same shall have become an estate or interest in possession by the determination of any estate or estates in respect of which such land shall have been held, or the profits thereof or such rent shall have been received, notwithstanding the person claiming such land, or some per-

(1) An important alteration is introduced into the law relating to landlords and tenants by this clause. Under the 21st Jac. c. 16, the mere nonpayment of rent by a lessee was not considered as raising an adverse possession in him, which would cause that statute to operate, although the nonpayment had extended over a period of upwards of twenty years; 2 Bos. & P. 542. Now, however, in consequence of the above section, declaring that a party's right of entry shall be deemed to have accrued at the last time at which rent was received, it follows that twenty years' possession by a tenant without payment of rent, or any acknowledgment in writing of the landlord's title (see *post*, s. 16), will be a complete bar to the latter.

(2) A remainder man or reversioner is not bound to take advantage of a forfeiture, but may waive it, and wait until the determination of the particular estate, before he proceeds to make an entry, bringing his action; 1 Ves. sen. 278. The object of the section, therefore, is to prevent him being induced by such waiver.

son through whom he claims, shall, at any time previously to the creation of the estate or estates which shall have determined, have been in possession or receipt of the profits of such land, or in receipt of such rent.

VI. That for the purposes of this act an administrator claiming the estate or interest of the deceased person of whose chattels he shall be appointed administrator shall be deemed to claim as if there had been no interval of time between the death of such deceased person and the grant of the letters of administration (1).

No. II.
3 & 4 W. 4,
c. 27.

An administrator to claim as if he obtained the estate without interval after death of deceased.

VII. That when any person shall be in possession or in receipt of the profits of any land, or in receipt of any rent, as tenant at will, the right of the person entitled subject thereto, or of the person through whom he claims, to make an entry or distress or bring an action to recover such land or rent shall be deemed to have first accrued either at the determination of such tenancy, or at the expiration of one year next after the commencement of such tenancy, at which time such tenancy shall be deemed to have determined: Provided always, that no mortgagor or cestui que trust shall be deemed to be a tenant at will, within the meaning of this clause, to his mortgagee or trustee.

In the case of a tenant at will, the right shall be deemed to have accrued at the end of one year.

VIII. That when any person shall be in possession or in receipt of the profits of any land, or in receipt of any rent, as tenant from year to year or other period, without any lease in writing, the right of the person entitled subject thereto, or of the person through whom he claims, to make an entry or distress or to bring an action to recover such land or rent shall be deemed to have first accrued at the determination of the first of such years or other periods, or at the last time when any rent payable in respect of such tenancy shall have been received (which shall last happen.)

No person after a tenancy from year to year, to have any right but from the end of the first year or last payment of rent.

IX. That when any person shall be in possession or in receipt of the profits of any land, or in receipt of any rent, by virtue of a lease in writing, by which a rent amounting to the yearly sum of twenty-shillings or upwards shall be reserved, and the rent reserved by such lease shall have been received by some person wrongfully claiming to be entitled to such land or rent in reversion immediately expectant on the determination of such lease, and no payment in respect of the rent reserved by such lease shall afterwards have been made to the person rightfully entitled thereto, the right of the person entitled to such land or rent, subject to such lease, or of the person through whom he claims, to make an entry or distress or to bring an action after the determination of such lease shall be deemed to have first accrued at the time at which the rent reserved by such lease was first so received by the person wrongfully claiming as aforesaid; and no such right shall be deemed to have first accrued upon the determination of such lease to the person rightfully entitled (2).

Where rent amounting to 20s. reserved by a lease in writing, shall have been wrongfully received, no right to accrue on the determination of the lease.

X. That no person shall be deemed to have been in possession of any land within the meaning of this act merely by reason of having made an entry thereon (3).

A mere entry not to be deemed possession.

(1) The intention of this section is, to get rid of a practical inconvenience which resulted from the former state of the land under which it was decided that as the property of the intestate only vested in his administrator from the grant of administration, (See *Woolley v. Clark*, 5 B. & A. 744,) the 21 Jac. c. 16, as to rights accruing after the death of the deceased only began to run from the time of obtaining such grant. Consequently a right to a term of years might have been kept alive for an indefinite period, notwithstanding adverse possession by delay or neglect to administer on the part of the next of kin.

(2) Previous to this act, a right of entry was preserved to the owner of a subsisting lease, although no rent had been received by him; *Orwell v. Maddox*, *Runn. Ejectm.* No. 1; neither did the adverse receipt of rent by another person for upwards of twenty years deprive the party of his right of entry at the expiration of the lease; *Doe v. Dunvers*, 7 East, 299, and see 2 Sch. & Lef. 625; 3 B. & C. 298.

(3) By the 4th & 5th Anne, c. 16, s. 14, no entry upon lands should be of force to satisfy the 21st Jac. 1, c. 16, unless an action was thereupon commenced within one year after, and pro-

No. II.
3 & 4 W. 4,
c. 27.

No right to be
preserved by
continual
claim.

Possession of
one coparcener,
&c. not to be
the possession

Possession of
a younger brother
not to be
the possession
of the heir.

Acknowledgment
in writing
given to the
person entitled,
or his agent, to
be equivalent
to possession
or receipt of
rent.

XI. That no continual or other claim upon or near any land shall preserve any right of making an entry or distress or of bringing an action (1).

XII. That when any one or more of several persons entitled to any land or rent as coparceners, joint tenants, or tenants in common, shall have been in possession or receipt of the entirety, or more than his or their undivided share or shares of such land or of the profits thereof, or of such rent, for his or their own benefit, or for the benefit of any person or persons other than the person or persons entitled to the other share or shares of the same land or rent, such possession or receipt shall not be deemed to have been the possession or receipt of or by such last-mentioned person or persons or any of them (2).

XIII. That when a younger brother or other relation of the person entitled as heir to the possession or receipt of the profits of any land, or to the receipt of any rent, shall enter into the possession or receipt thereof, such possession or receipt shall not be deemed to be the possession or receipt of or by the person entitled as heir (3).

XIV. Provided always, That when any acknowledgment of the title of the person entitled to any land or rent shall have been given to him or his agent in writing signed by the person in possession or in receipt of the profits of such land, or in receipt of such rent, then such possession or receipt of or by the person by whom such acknowledgment shall have been given shall be deemed, according to the meaning of this act, to have been the possession or receipt of or by the person to whom or to whose agent such acknowledgment shall have been given at the time of giving the same, and the right of such last-mentioned person, or any person claiming through him, to make an entry or distress or bring an action to recover such land or rent shall be deemed to have first accrued at and not before the time at which such acknowledgment, or the last of such acknowledgments if more than one, was given (4).

cuted with effect; 1 *Wms. Saund.* 319 n.; 10 *B. & C.* 848. The above clause will therefore have the effect of shortening the time within which an ejectment may be brought, for under the act of Anne, a party might enter just before the expiration of the twenty years, and prosecute his action within a year afterwards.

(1) Before this statute an entry, whether actual or in law, made by one having a legal right to enter lands, or by his agent duly authorised, if made peaceably, and repeated once in the space of every year and a day (which was called continual claim) was sufficient to prevent the right of entry from being tolled (that is taken away) by a descent cast, or by a discontinuance, or from being barred by the 21 Jac. 1, c. 16. See *Litt. ss.* 414, 415; *Runn. Ejectm.* 51, 52; *Adam's Ejectm.* 101, 3rd ed.; *Ford v. Gray*, 1 *Salk* 285.

(2) This section alters the rule of law that the possession of any one coparcener, joint tenant, or tenant in common, was the possession of the others of them, so as to prevent their being barred by the former statutes of limitation. Possession by one coparcener created a seisin in another, which carried her share by descent to her heirs, although she never actually entered; 7 *T. R.* 386; and the entry of one coparcener, when not adverse to the rest, enured to the benefit of all; *Co. Lit.* 243 b.; 6 *East*, 173. Neither was the receipt of the rents and profits by one held to be as an ouster of the others; *Co. Lit.* 243 a. n. (1) 373 b.; 1 *Salk*, 285. Thus the bare receipt of rent for twenty-six years by a tenant in common, without accounting to the other, was considered to be no evidence of ouster; 5 *Burr.* 2604; and see 3 *B. & Ad.* 763. But possession for forty years by one tenant in common, where there was no evidence of any account having been demanded, or any rent paid, or of any claim on the part of the lessors of the plaintiff, or of any acknowledgment of title in them, or on those under whom they claimed, was held sufficient ground for the jury to presume an actual ouster; *Cowp.* 207. And a claim of the whole by one tenant in common in possession, who denied possession to the other, was decided to be evidence of an ouster of the latter; 11 *East*, 49. A feoffment by one parcener, who occupies alone, under a general entry, operates as a conveyance of her own property, and as a forfeiture of her coparceners; *Doe d. Read v. Taylor*, 2 *N. & M.* 508.

(3) This clause is also an alteration of the law. Where a younger son, on the death of his father, entered by abatement into his lands, and had issue, and died seized thereof, the elder son, or his issue, might enter, notwithstanding the descents nor did the statute of limitations operate; as the law intended, that, when the younger son abated into the land, he entered, claiming as heir to his father, and the elder son, or his issue claimed by the same title. See *Litt.* 396.

(4) The parol declarations of a widow who had continued upwards of twenty years in possession

XV. Provided also, That when no such acknowledgment as aforesaid shall have been given before the passing of this act, and the possession or receipt of the profits of the land, or the receipt of the rent, shall not at the time of the passing of this act have been adverse to the right or title of the person claiming to be entitled thereto, then such person or the person claiming through him, may, notwithstanding the period of twenty years herein-before limited shall have expired, make an entry or distress or bring an action to recover such land or interest at any time within five years next after the passing of this act.

No. II.
3 & 4 W. 4,
c. 27.

Where possession is not adverse at the time of passing the act, the

right shall not be barred until the end of five years afterwards.

XVI. Provided always, That if at the time at which the right of any person to make an entry or distress or bring an action to recover any land or rent shall have first accrued as aforesaid such person shall have been under any of the disabilities herein-after mentioned, (that is to say) infancy, coverture, idiotcy, lunacy, unsoundness of mind, or absence beyond seas, then such person, or the person claiming through him, may, notwithstanding the period of twenty-years herein-before limited shall have expired, make an entry or distress or bring an action to recover such land or rent at any time within ten years next after the time at which the person to whom such right shall first have accrued as aforesaid shall have ceased to be under any such disability, or shall have died (which shall have first happened) (1).

Persons under disability of infancy, lunacy, coverture, or beyond seas, and their representatives, to be allowed ten years from the termination of their disability or death.

XVII. Provided nevertheless, That no entry, distress or action shall be made or brought by any person who, at the time at which his right to make an entry or distress or to bring an action to recover any land or rent shall have first accrued, shall be under any of the disabilities herein-before mentioned, or by any person claiming through him, but within forty years next after the time at which such right shall have first accrued, although the person under disability at such time may have remained under one or more of such disabilities during the whole of such forty years, or although the term of ten years from the time at which he shall have ceased to be under any such disability, or have died, shall not have expired.

But no action, &c. shall be brought beyond forty years after the right of action accrued.

XVIII. Provided always, That when any person shall be under any of the disabilities herein-before mentioned at the time at which his right to make an entry or distress or to bring an action to recover any land or rent shall have first accrued, and shall depart this life without having ceased to be under any such disability, no time to make an entry or distress or to bring an action to recover such land or rent beyond the said period of twenty years next after the right of such person to make an entry or distress or to bring an action to recover such land or rent shall have first accrued, or the said period of ten years next after the time at which such person shall have died, shall be allowed by reason of any disability of any other person. (2)

No further time to be allowed for a succession of disabilities.

XIX. That no part of the united kingdom of Great Britain and Ireland, nor the islands of Man, Guernsey, Jersey, Alderney, or Sark, nor any island adjacent to any of them (being part of the dominions of his Majesty), shall be deemed to be beyond seas within the meaning of this act. (3)

Scotland, Ireland, and the adjacent islands, not to be deemed beyond seas.

of an estate, that she held it for life, and on her death it would go to her husband's heirs, were admitted in evidence to negative the fact of her having had twenty years' adverse possession; *Doe d. Haman v Pettet*, 5 B. & A. 223. And see *Doe dem. Roffey v. Harborough*, 1 Nev. & M. 422.

(1) Imprisonment, it will be seen, is not a disability within this act, as it is within the 21 Jac. 1, c. 16.

(2) Under the 21 Jac. 1, c. 16, the time when that statute begun to run might be protracted for an indefinite period by a succession of disabilities in the person having the right of entry, or his heir, (See *Lessee of Supple v. Raymond*, 1 Hayes Ir. Rep. 6,) provided that no interval occurred between such disabilities to which the statute could attach; for when once the act began to run no subsequent disability, whether voluntary or involuntary, prevented its operation; *Doe d. Durome v. Jones*, 4 Term Reports, 310; *Cotterell v. Dutton*, 4 Taunt. 826; *Doe d. George v. Jesson*, 6 East 80.

(3) See the 3 & 4 W. c. 42, post.

No. II.

3 & 4 W. 4,
c. 27.

When the right to an estate in possession is barred, the right of the same person to future estates shall also be barred.

Where tenant in tail is barred, remaindermen, whom he might have barred, shall not recover.

Possession adverse to a tenant in tail shall run on against the remaindermen whom he might have barred.

Where there shall have been possession under an assurance, by a tenant in tail, which shall not bar the remainders, they shall be barred at the

XX. That when the right of any person to make an entry or distress or bring an action to recover any land or rent to which he may have been entitled for an estate or interest in possession shall have been barred by the determination of the period herein-before limited, which shall be applicable in such case, and such person shall at any time during the said period have been entitled to any other estate, interest, right, or possibility, in reversion, remainder, or otherwise, in or to the same land or rent, no entry, distress, or action shall be made or brought by such person, or any person claiming through him, to recover such land or rent, in respect of such other estate, interest, right, or possibility, unless in the meantime such land or rent shall have been recovered by some person entitled to an estate, interest, or right which shall have been limited or taken effect after or in defeasance of such estate or interest in possession. (1)

XXI. That when the right of a tenant in tail of any land or rent to make an entry or distress or to bring an action to recover the same shall have been barred by reason of the same not having been made or brought within the period herein-before limited, which shall be applicable in such case, no such entry, distress, or action shall be made or brought by any person claiming any estate, interest, or right which such tenant in tail might lawfully have barred.

XXII. That when a tenant in tail of any land or rent, entitled to recover the same, shall have died before the expiration of the period herein-before limited, which shall be applicable in such case, for making an entry or distress or bringing an action to recover such land or rent, no person claiming any estate, interest, or right which such tenant in tail might lawfully have barred shall make an entry or distress or bring an action to recover such land or rent but within the period during which, if such tenant in tail had so long continued to live, he might have made such entry or distress or brought such action. (2)

XXIII. That when a tenant in tail of any land or rent shall have made an assurance thereof, which shall not operate to bar an estate or estates to take effect after or in defeasance of his estate tail, and any person shall by virtue of such assurance, at the time of the execution thereof, or at any time afterwards, be in possession or receipt of the profits of such land, or in the receipt of such rent, and the same person, or any other person whatsoever (other than some person entitled to such possession or receipt in respect of an estate which shall have taken effect after or in defeasance of the estate tail), shall continue or be in such

(1) Under the 21 Jac. 1, c. 16 s. 1. a party might pursue his right of entry within twenty years after it accrued, although in the meantime he had a different right of which he was barred by more than twenty years' adverse enjoyment. For instance, where a tenant in tail of lands in ancient demesne demised them by fine in the court of ancient demesne for three lives, and afterwards levied, a fine of the reversion in the same court to the use of himself and his heirs (it being agreed that fines in that court did not bar estates tail) it was held that the first fine enacted a discontinuance, and the second did not, and that although the issue in tail did not bring their *formdon* within twenty years after the death of their ancestor, they were not barred of their right of entry within twenty years from the determination of the lease for lives; *Hunt v. Bourne*, 1 Salk. 339; *Id.* 421, 4 Br. P. C. 66.

(2) These two last clauses introduce an important alteration into the law, with reference to persons having remainders in reversion dependant upon estates tail. The 21 Jac. 1, c. 16, in no case began to operate with respect to any individual, until his title to the possession had accrued; and therefore, as the right of entry of a remainderman did not arise until the failure of the tenant in tail's issue, the statute did not commence to run against him until that event had happened; nor could he be prejudiced by any neglect of the tenant in tail, or his issue. Consequently the remainderman might, notwithstanding there had been an adverse enjoyment of the property for centuries against the tenant in tail and his issue, by which they were barred, at any time within twenty years after the failure of such issue have brought an ejectment to recover the estate; *Taylor v. Horda*, 1 Burr. 60; *S. C. Comp.* 689. Now adverse possession for twenty years against a tenant in tail is made a bar to him, and to all those in remainder or reversion whom he might have barred, and when once time commenced to run against a tenant in tail, it shall continue to run against person claiming interests whom he might have barred.

possession or receipt for the period of twenty years next after the commencement of the time at which such assurance, if it had then been executed by such tenant in tail or the person who would have been entitled to his estate tail if such assurance had not been executed, would, without the consent of any other person, have operated to bar such estate or estates as aforesaid, then at the expiration of such period of twenty years such assurance shall be and be deemed to have been effectual as against any person claiming any estate, interest, or right to take effect after or in defeasance of such estate tail. (1)

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end of twenty years after the time when the assurance, if then executed, would have barred them.

XXIV. That after the said thirty-first day of December one thousand eight hundred and thirty-three no person claiming any land or rent in equity shall bring any suit to recover the same but within the period during which by virtue of the provisions herein-before contained he might have made an entry or distress or brought an action to recover the same respectively if he had been entitled at law to such estate, interest, or right in or to the same as he shall claim therein in equity. (2)

No suit in equity to be brought after the time when the plaintiff, if entitled at law, might have brought an action.

XXV. Provided always, That when any land or rent shall be vested in a trustee upon any express trust, the right of the cestui que trust, or any person claiming through him, to bring a suit against the trustee, or any person claiming through him, to recover such land or rent, shall be deemed to have first accrued, according to the meaning of this act, at and not before the time at which such land or rent shall have been conveyed to a purchaser for a valuable consideration, and shall then be deemed to have accrued only as against such purchaser and any person claiming through him. (3)

In cases of express trust, the right shall not be deemed to have accrued until a conveyance to a purchaser.

XXVI. That in every case of a concealed fraud the right of any person to bring a suit in equity for the recovery of any land or rent of which he, or any person through whom he claims, may have been deprived by such fraud, shall be deemed to have first accrued at and not before the time at which such fraud shall or with reasonable diligence might have been first known or discovered; provided that nothing in this clause contained shall enable any owner of lands or rents to have a suit in

In cases of fraud no time shall run whilst the fraud remains concealed.

(1) Previous to this act, where an heir in tail brought an ejectment against a defendant who had been in receipt of the rents for thirty years during the life of the ancestor in tail, (who had had seisin), and for seven years after his decease; it was held that such possession by the defendant was no bar to the action, and that the heir was not bound to rebut the presumption arising from such possession, by showing that the ancestor had not conveyed by fine and recovery. For though he might have so conveyed, he might also have conveyed by lease and release, which would have made a good title against himself only, and would not have barred the next tenant in tail; and the long possession by the defendant might be referrible to such a state of things; 3 B. & Ad. 738; S. C. 1 N. & M. 385. It is to be observed, that the above clause relates only to cases where there has been an assurance made by a tenant in tail, and does not apply where, as in the decision just quoted, there has been no conveyance from the tenant in tail. It is probable, however, were a similar case to occur hereafter that the courts would hold that the possession was evidence of an assurance by the tenant in tail, sufficient to bring the case within the above clause, or at least that it raised a presumption, which the heir in tail must rebut by showing there had been no such assurance.

(2) Courts of equity have always considered equitable rights as bound by the same limitations as were imposed by statute on proceedings at law, 1 P. Wms. 742; 3 P. Wms. 143; and see 2 Sch. & Lef. 630; they also adopted the exceptions in the statute of limitations, and permitted persons to prosecute their claims within ten years after the removal of their disabilities; 3 P. Wms. 287 n.; 4 Br. C. C. 441.

(3) In the case of a direct trust, time is not allowed as between the trustee, and the cestui que trust, to operate as a bar to the latter; Barnard, 449, 1 Br. C. C. 551. But the rule was held not to apply to a claim, after a great length of time, against a trustee by implication of law arising upon a doubtful equity; Townsend v. Townsend, 1 Cos. 28; and a court of equity will not permit a case of constructive trust to be made out at any distance of time; and where relief would originally have been given upon the ground of constructive trust, it is refused after long acquiescence by the party seeking it; Beckford v. Wade, 17 Ves. 97.

The rule, however, that trusts are not within the statute of limitations, is confined to cases between the cestui que trust and the trustee; therefore, where both are out of possession for the limited time they are both barred; Barnard. 445; 6 Ves. 199; 8 Ves. 106; 2 Sch. & Lef. 629.

No. II.
3 & 4 W. 4,
c. 27.

Saving the jurisdiction of equity on the ground of acquiescence or otherwise.

Mortgagor to be barred at the end of twenty years from the time when the mortgagee took possession, or from the last written acknowledgment.

equity for the recovery of such lands or rents, or for setting aside any conveyance of such lands or rents, on account of fraud, against any *bond fide* purchaser for valuable consideration who has not assisted in the commission of such fraud, and who at the time that he made the purchase did not know and had no reason to believe that any such fraud had been committed. (1)

XXVII. Provided always, That nothing in this act contained shall be deemed to interfere with any rule or jurisdiction of courts of equity in refusing relief on the ground of acquiescence or otherwise to any person whose right to bring a suit may not be barred by virtue of this act. (2)

XXVIII. That when a mortgagee shall have obtained the possession or receipt of the profits of any land, or the receipt of any rent, comprised in his mortgage, the mortgagor or any person claiming through him shall not bring a suit to redeem the mortgage but within twenty years next after the time at which the mortgagee obtained such possession or receipt, unless in the meantime an acknowledgment of the title of the mortgagor or of his right of redemption shall have been given to the mortgagor, or some person claiming his estate, or to the agent of such mortgagor or person, in writing signed by the mortgagee or the person claiming through him; and in such case no such suit shall be brought but within twenty years next after the time at which such acknowledgment, or the last of such acknowledgments if more than one, was given; and when there shall be more than one mortgagor, or more than one person claiming through the mortgagor or mortgagors, such acknowledgment, if given to any of such mortgagors or persons, or his or their agent, shall be as effectual as if the same had been given to all such mortgagors or persons; but where there shall be more than one mortgagee, or more than one person claiming the estate or interest of the mortgagee or mortgagees, such acknowledgment, signed by one or more of such mortgagees or persons, shall be effectual only as against the party or parties signing as aforesaid, and the person or persons claiming any part of the mortgage money or land or rent by, from, or under him or them, and any person or persons entitled to any estate or estates, interest or interests, to take effect after or in defeasance of his or their estate or estates, interest or interests, and shall not operate to give to the mortgagor or mortgagors a right to redeem the mortgage as against the person or persons entitled to any other undivided or divided part of the money or land or rent; and where such of the mortgagees or persons aforesaid as shall have given such acknowledgment shall be entitled to a divided part of the land or rent comprised in the mortgage, or some estate or interest therein, and not to any ascertained part of the mortgaged money, the mortgagor or mortgagors shall be entitled to redeem the same divided part of the land or rent on payment, with interest, of the part of the mortgage money which shall bear the same proportion to the whole of the mortgage money as the value of such divided part of the land or rent shall bear to the value of the whole of the land or rent comprised in the mortgage. (3)

(1) It has been long held in equity that length of time is no bar in cases of fraud; 1 *Fonbl. Eq.* 331; 3 *Br. C. C.* 633; 1 *Mer.* 436; 12 *Ves.* 355; 3 *Swans.* 400; but where the facts constituting the fraud had been in the knowledge of the party, and he had laid by for twenty-five years, relief was refused; 2 *Ball & B.* 118.

(2) Long acquiescence by a party acquainted with the facts, is held in equity to be a bar to relief for setting aside a lease on the ground of fraud, or mistake, and an heir at law has been refused an issue *devisavit vel non* after twenty-years acquiescence in a will; *Tucker & others v. Sanger*, *M'Cl.* 424; *S. C.* 13 *Price*, 119. But acquiescence will not be considered to have taken place, so long as the undue influence on the one side, and the distress on the other out of which the transaction arose, *Purcell v. Macnamara*, 14 *Ves.* 106; and where all the parties are under the influence of a common mistake, the doctrine of acquiescence does not apply, 2 *Mer.* 362.

(3) Previous to this act, twenty years' possession by a mortgagee, without any acknowledg-

XXIX. Provided always, That it shall be lawful for any archbishop, bishop, dean, prebendary, parson, vicar, master of hospital, or other spiritual or eleemosynary corporation sole, to make an entry or distress or to bring an action or suit to recover any land or rent within such period as herein-after is mentioned next after the time at which the right of such corporation sole, or of his predecessor, to make such entry or distress or bring such action or suit shall first have accrued; (that is to say,) the period during which two persons in succession shall have held the office or benefice in respect whereof such land or rent shall be claimed, and six years after a third person shall have been appointed thereto, if the times of such two incumbencies and such term of six years taken together shall amount to the full period of sixty years; and if such times taken together shall not amount to the full period of sixty years, then during such further number of years in addition to such six years as will, with the time of the holding of such two persons and such six years, make up the full period of sixty years; and after the said thirty-first day of December one thousand eight hundred and thirty-three no such entry, distress, action, or suit shall be made or brought at any time beyond the determination of such period. (1)

No. II.
3 & 4 W. 4,
c. 27.

No lands or rents to be recovered by ecclesiastical or eleemosynary corporations sole but within two incumbencies and six years, or sixty years.

XXX. That after the said thirty-first day of December one thousand eight hundred and thirty-three no person shall bring any quare impedit or other action or any suit to enforce a right to present to or bestow any church, vicarage, or other ecclesiastical benefice, as the patron thereof, after the expiration of such period as hereinafter is mentioned; (that is to say,) the period during which three clerks in succession shall have held the same, all of whom shall have obtained possession thereof adversely to the right of presentation or gift of such person, or of some person through whom he claims, if the times of such incumbencies taken together shall amount to the full period of sixty years; and if the times of such incumbencies shall not together amount to the full period of sixty years, then after the expiration of such further time as with the times of such incumbencies will make up the full period of sixty years. (2)

No advowson to be recovered but within three incumbencies or sixty years.

XXXI. Provided always, That when on the avoidance, after a clerk shall have obtained possession of an ecclesiastical benefice adversely to the right of presentation or gift of the patron thereof, a clerk shall be reckoned with-presented or collated thereto by his Majesty or the ordinary by reason of a lapse, such last-mentioned clerk shall be deemed to have obtained pos-

Incumbencies after lapse to be reckoned in the period. but not incum-

ment of the mortgagor's title, was a bar in equity to the claim of the latter; 2 J. & W. 158. But if within the twenty years the mortgagee had kept accounts, or otherwise dealt with the property as mortgagee, he was not protected by the mortgagor's negligence; 6 Mad. 181; S. C. 1 Ves. & B. 536. So an acknowledgment to a third party, as an assignment by the mortgagee of his interest, treating it as a mortgage; 4 Ves. 478; or recognizing it in a will, or in any other deed, as such; 2 Eq. Cas. Abr. 600; 2 Br. C. C. 399; 13 Ves. 455; 1 Sim. & S. 347; was held to preserve the mortgagor's right to redeem. And a parol acknowledgment of the mortgage within twenty years was sufficient, 6 Mad. 274; but the proof must have been clear and unimpeachable, 2 Cox, 295.

(1) Ecclesiastical corporations, and ecclesiastical persons, in right of their churches, were not within the former statutes of limitations. But although neither the acts nor neglect of ecclesiastical persons barred their successors, yet incumbents, by submitting to an adverse possession, or by doing other acts, might be individually bound; Plowd. 358, 375, n.; 4 B. & A. 579; 5 B. & C. 696; Ecclesiastical persons are also within the act shortening the time of prescription in certain cases (2 & 3 W. 4, c. 71), see ante. And their claims are greatly limited by the modus act (2 & 3 W. 4, c. 100.) See Part II., Class 2, Tithes.

(2) By the 1st Mary, stat. 2, c. 5, (extended to Ireland by the 10th Car. 1, st. 2, c. 6,) it was enacted, That the 32d H. 8, c. 2, should not extend to a writ of right of advowson, *quare impedit*, assize of *darreign presentment* nor *jus patronatus*, but the time of seisin to be alleged in such cases should be as it was at the common law, before the making of the said statute, which was from the commencement of the reign of Richard the first. By the 7th Anne, c. 18, (extended to Ireland, by 1 G. 2, c. 23, see *Evans's Statutes*, Part I., Class 2,) it was provided, That no usurpation should displace the estate of the patron, and that he might present or maintain his *quare impedit* upon the next avoidance, notwithstanding such usurpation. This enactment took away all limitations of suit respecting the rights of patronage. See 3 Bl. Comm. 250.

No. II.
3 & 4 W. 4,
c. 27.

bencies after
promotions to
bishopricks.

When person
claiming an
advowson in
remainder, &c.
after an estate
tail, shall be
barred.

No advowson
to be recovered
after 100 years.

At the end of
the period of li-
mitation the
right of the
party out of
possession to be
extinguished.

Receipt of rent
to be deemed
receipt of pro-
fits.

Real and mixed
actions abo-
lished after the
31st Decem-
ber 1834,

except for
dower, quare
impedit, and
ejectment.

session adversely to the right of presentation or gift of such patron as aforesaid; but when a clerk shall have been presented by his Majesty upon the avoidance of a benefice in consequence of the incumbent thereof having been made a bishop, the incumbency of such clerk shall, for the purposes of this act, be deemed a continuation of the incumbency of the clerk so made bishop.

XXXII. That in the construction of this act every person claiming a right to present to or bestow any ecclesiastical benefice, as patron thereof, by virtue of any estate, interest, or right which the owner of an estate tail in the advowson might have barred, shall be deemed to be a person claiming through the person entitled to such estate tail, and the right to bring any quare impedit, action, or suit, shall be limited accordingly.

XXXIII. Provided always, That after the said thirty-first day of December one thousand eight hundred and thirty-three no person shall bring any quare impedit or other action or any suit to enforce a right to present to or bestow any ecclesiastical benefice, as the patron thereof, after the expiration of one hundred years from the time at which a clerk shall have obtained possession of such benefice adversely to the right of presentation or gift of such person, or of some person through whom he claims, or of some person entitled to some preceding estate or interest, or undivided share, or alternate right of presentation or gift, held or derived under the same title, unless a clerk shall subsequently have obtained possession of such benefice on the presentation or gift of the person so claiming, or of some person through whom he claims, or of some other person entitled in respect of an estate, share, or right held or derived under the same title.

XXXIV. That at the determination of the period limited by this act to any person for making an entry or distress, or bringing any writ of quare impedit or other action or suit, the right and title of such person to the land, rent, or advowson for the recovery whereof such entry, distress, action, or suit respectively might have been made or brought within such period, shall be extinguished. (1)

XXXV. That the receipt of the rent payable by any tenant from year to year, or other lessee, shall, as against such lessee or any person claiming under him (but subject to the lease), be deemed to be the receipt of the profits of the land for the purposes of this act.

XXXVI. That no writ of right patent, writ of right quia dominus remiset curiam, writ of right in capite, writ of right in London, writ of right close, writ of right de rationabili parte, writ of right of advowson, writ of right upon disclaimer, writ de rationabilibus divisib, writ of right of ward, writ de consuetudinibus et servitiis, writ of cessavit, writ of escheat, writ of quo jure, writ of secta ad molendinum, writ de essendo quietum de theolonio, writ of ne injuste vexes, writ of mesne, writ of quod premitat, writ of formedon in descender, in remainder, or in reverter, writ of assize of novel disseisin, nuisance, darrein-presentment, juris utrum, or mort d'ancestor, writ of entry sur disseisin, in the quibus, in the per, in the per and cui, or in the post, writ of entry sur intrusion, writ of entry sur alienation dum fuit non compos mentis, dum fuit infra ætatem, dum fuit in prisona, ad communem legem, in casu proviso, in consimili casu, cui in vita, sur cui in vita, cui ante divortium, or sur cui ante divortium, writ of entry sur abatement, writ of entry quare ejecit infra terminum, or ad terminum qui præterit, or causa matrimonii prælocuti, writ of aiel, besaiel, tresaiel, cosinage, or nuper obiit, writ of waste, writ of partition, writ of disceit, writ of quod ei deforceat, writ of covenant real, writ of warrantia chartæ, writ of curia claudenda, or writ per quæ servitia, and no other action real or

(1) The former statutes of limitation were held not to bar the right, but only the remedy, 1 Saund. 283, a. n; 2 B. & Ad. 413. The present act has wisely put an end to such an absurd distinction.

mixed (except a writ of right of dower, or writ of dower unde nihil habet, or a quare impedit, (1) or an ejectment,) and no plaint in the nature of any such writ or action (except a plaint for freebench or dower), shall be brought after the thirty-first day of December one thousand eight hundred and thirty-four.

No. II.
3 & 4 W. 4,
c. 27.

XXXVII. Provided always, That when, on the said thirty-first day of December one thousand eight hundred and thirty-four, any person who shall not have a right of entry to any land shall be entitled to maintain any such writ or action as aforesaid in respect of such land, such writ or action may be brought at any time before the first day of June one thousand eight hundred and thirty-five, in case the same might have been brought if this act had not been made, notwithstanding the period of twenty years herein-before limited shall have expired.

Real actions
may be brought
until the 1st
June 1835.

XXXVIII. Provided also, That when, on the said first day of June one thousand eight hundred and thirty-five, any person whose right of entry to any land shall have been taken away by any descent cast, discontinuance, or warranty, might maintain any such writ or action as aforesaid in respect of such land, such writ or action may be brought after the said first day of June one thousand eight hundred and thirty-five, but only within the period during which by virtue of the provisions of this act an entry might have been made upon the same land by the person bringing such writ or action if his right of entry had not been so taken away.

Saving the
rights of per-
sons entitled to
real actions
only at the
commencement
of the act, &c.

XXXIX. That no descent cast, discontinuance, or warranty, (2) which may happen or be made after the said thirty-first day of December one thousand eight hundred and thirty-three shall toll or defeat any right of entry or action for the recovery of land.

No descent,
warranty, &c.
to bar a right of
entry.

XL. That after the said thirty-first day of December one thousand eight hundred and thirty-three no action or suit or other proceeding shall be brought, to recover any sum of money secured by any mortgage, judgment, or lien, or otherwise charged upon or payable out of any land or rent, at law or in equity, or any legacy, but within twenty years next after a present right to receive the same shall have accrued to some person capable of giving a discharge for or release of the same, unless in the meantime some part of the principal money, or some interest thereon, shall have been paid, or some acknowledgment of the right thereto shall have been given in writing signed by the person by whom the same shall be payable, or his agent, to the person entitled thereto or his agent; and in such case no such action or suit or proceeding shall be brought but within twenty years after such payment or acknowledgment, or the last of such payments or acknowledgments if more than one, was given. (3)

Money charged
upon land and
legacies to be
deemed satis-
fied at the end
twenty years if
there shall be
no interest paid
or acknow-
ledgment in
writing in the
meantime.

(1) See the act giving costs in *quare impedit*, post, Part IV., Class XI.

(2) By the 3 & 4 W. IV. c. 74, s. 14, all warranties of lands after the 31st December 1833, by tenants in tail are declared wholly void. See ante, Part II, Class 1; *Fines and Recoveries*. It is to be observed that in consequence of the abolitions of fines by the above act, a title to lands can no longer be acquired by a fine levied with proclamations and nonclaim for five years, under the provisions of the 4 H. 7, c. 24.

(3) Previous to this act, if a mortgagee continued in possession, and there had been neither payment nor demand of principal or interest for twenty years, a court of equity would presume payment, 1 *Chan. Rep.* 59, 105; *Trash v. White*, 3 Br. C. C. 289; *Christopher v. Sparke*, 2 Jac. & Walk. 228; *Cooke v. Soltau*, 2 Sim. and St. 154; but such presumption might be rebutted by circumstances, and the payment of interest, even in part of the debt, would keep the whole alive. *Lofus v. Smith*; 2 Sch. & L. 642. So a lapse of twenty years raised a presumption that a judgment had been satisfied, *Peake's Ev.* 25 n.; *Kemys v. Ruscomb*, 2 Atk. 45; *Willlaume v. Gorges* 1 *Campb.* 217.

Also, it seems, that the lapse of twenty-one years after the testator's death, without any demand of legacy, would have been sufficient to raise a presumption of payment, *Montresor v. Williams*, 1 *Rep. on Leg.* 792, 2d ed. In a recent case this doctrine received great consideration, and there it was held that a party was barred, by length of time, who had bought a legacy which was assigned to him twenty-seven years after the testator's death, and four years more had elapsed before he filed his bill; *Campbell v. Graham*, 1 *Russ. & M.* 453.

No. II.
3 & 4 W. 4,
c. 27.

No arrears of
rent or interest
to be recovered
for more than
six years.

Act to extend
to the spiritual
courts.

Act not to ex-
tend to Scot-
land, nor to ad-
vowsons in
Ireland.

XLI. That after the said thirty-first day of December one thousand eight hundred and thirty-three no arrears of dower, nor any damages on account of such arrears, shall be recovered or obtained by any action or suit for a longer period than six years next before the commencement of such action or suit. (1)

dower to be recovered for more than six years.

XLII. That after the said thirty-first day of December one thousand eight hundred and thirty-three no arrears of rent or of interest in respect of any sum of money charged upon or payable out of any land or rent, or in respect of any legacy, or any damages in respect of such arrears of rent or interest, shall be recovered by any distress, action, or suit but within six years next after the same respectively shall have become due, or next after an acknowledgment of the same in writing shall have been given to the person entitled thereto, or his agent, signed by the person by whom the same was payable, or his agent: Provided nevertheless, That where any prior mortgagee or other incumbrancer shall have been in possession of any land, or in the receipt of the profits thereof, within one year next before an action or suit shall be brought by any person entitled to a subsequent mortgage or other incumbrance on the same land, the person entitled to such subsequent mortgage or incumbrance may recover in such action or suit the arrears of interest which shall have become due during the whole time that such prior mortgagee or incumbrancer was in such possession or receipt as aforesaid, although such time may have exceeded the said term of six years. (2)

XLIII. That after the said thirty-first day of December one thousand eight hundred and thirty-three no person claiming any tithes, legacy, or other property for the recovery of which he might bring an action or suit at law or in equity, shall bring a suit or other proceeding in any spiritual court to recover the same but within the period during which he might bring such action or suit at law or in equity.

XLIV. Provided always, That this act shall not extend to Scotland; and shall not, so far as it relates to any right to permit to or bestow any church, vicarage, or other ecclesiastical benefice, extend to Ireland.

[No. III.] 3 & 4 W. 4. c. 42.—An Act for the further
Amendment of the Law, and the better Advancement of
Justice. [14th August 1833.]

Limitation of
action of debt
on specialties,
&c.

III. That all actions of debt for rent upon an indenture of demise, all actions of covenant or debt upon any bond or other specialty, and all actions of debt (3) or *scire facias* upon any recognizance, and also all

(1) Before this act there was no limitation to a claim of arrears of dower either at law or in equity; see *Oliver v. Richardson*, 9 Ves. 222. See the recent statute amending the law of dower. See *ante*, Part II, Class I.

(2) This clause contains no exception in favour of persons under disabilities; and Sir E. Sugden suggests that it "should be modified without loss of time, or the grossest injustice will be committed upon the just rights of legatees and others, particularly infant legatees." *Vend. & Purch.* 1 vol. 411 n. last ed.

(3) The object of this clause was, to fix a period of limitation for such actions as had been decided not to be within the 21st Jac. 1, c. 16. It was held that an action of debt for rent reserved on a lease by indenture was out of that statute, the lease by indenture being equal to a specialty; *Hutt*, 109; 1 *Saund.* 38. Also an action of debt for an escape was not within the statute, not only because it is founded in *maleficio*, and arises on a contract in law, which is different from those actions of debt on a lending or contract mentioned in the statute, but also because it is grounded on 1 *Rich.* 2, c. 12, which first gave an action of debt for an escape, there being no remedy for creditors before, but by action on the case; 1 *Saund.* 37; *Jones v. Pope*, 1 *Lev.* 191; 2 *Kebl.* 903; 1 *Sid.* 305. Neither did the statute extend to actions of covenant, nor to any actions of specialty, or other matter of a higher nature; 1 *Saund.* 38. Thus a *scire facias* being

actions of debt upon any award where the submission is not by specialty, or for any fine due in respect of any copyhold estates, or for an escape, or for money levied on any *feri facias*, and all actions for penalties, damages, or sums of money given to the party grieved, by any statute now or hereafter to be in force, that shall be sued or brought at any time after the end of the present session of parliament, shall be commenced and sued within the time and limitation herein-after expressed, and not after; that is to say, the said actions of debt for rent upon an indenture of demise, or covenant or debt upon any bond or other specialty, actions of debt or *scire facias* upon recognizance, within ten years after the end of this present session, or within twenty years after the cause of such actions or suits, but not after; the said actions by the party grieved, one year after the end of this present session, or within two years after the cause of such actions or suits but not after; and the said other actions within three years after the end of this present session, or within six years after the cause of such actions or suits, but not after; provided that nothing herein contained shall extend to any action given by any statute where the time for bringing such action is or shall be by any statute specially limited.

IV. That if any person or persons that is or are or shall be entitled to any such action or suit, or to such *scire facias*, is or are or shall be, at the time of any such cause of action accrued, within the age of twenty-one years, feme covert, non compos mentis, or beyond the seas, (1) then such person or persons shall be at liberty to bring the same actions, so as they commence the same within such times after their coming to or being of full age, discover, of sound memory, or returned from beyond the seas, as other persons having no such impediment should, according to the provisions of this act, have done; and that if any person or persons against whom there shall be any such cause of action is or are, or shall be at the time such cause of action accrued, beyond the seas, then the person or persons entitled to any such cause of action shall be at liberty to bring the same against such person or persons within such times as are before limited after the return of such person or persons from beyond the seas.

Infants, femes covert, &c.

Absence of defendants beyond seas provided for.

V. Provided always, That if any acknowledgment shall have been made, either by writing signed by the party liable by virtue of such indenture, specialty, or recognizance, or his agent, or by part payment or part satisfaction on account of any principal or interest being then due thereon, it shall and may be lawful for the person or persons entitled to such actions to bring his or their action for the money remaining unpaid and so acknowledged to be due within twenty years after such acknowledgment by writing or part payment or part satisfaction as aforesaid, or in case the person or persons entitled to such action shall at the time of such acknowledgment be under such disability as aforesaid, or the party making such acknowledgment be, at the time of making the

Proviso in case of acknowledgment in writing, or by part payment.

founded on matter of record was not within the act. So this statute could not be pleaded to an action of debt brought against a sheriff for money by him levied on a *feri facias*; because the action is founded in *maleficio*, as also upon the judgment on which the *feri facias* issued, which is a matter of record; 1 Mod. 212, 245; 2 Show. 79. And an action of debt on an award under the hand and seal of the arbitrators, though the submission was by parol, was not within the statute; 2 Saund. 64; Sid. 415; 1 Lev. 273; 1 Keb. 462, 496, 533. Nor an action of debt for a fine of a copyholder; 1 Keb. 536; 1 Lev. 273. Neither was an action of debt upon bond within the statute; Cowp. 102; but after a lapse of twenty years, without payment of interest or any acknowledgment of it by the obligor, the law presumed it to be satisfied; 1 Term. Rep. 270; and in some cases satisfaction was presumed within that period; 1 Bur. 434, n. (a), 1 Term. Rep. 270; 1 Camp. 26.

As to what steps are to be taken to prevent the operation of the statutes of limitations. See the Uniformity of Process Act, 2 W. 4, c. 39, 10, *ante*, Part IV., Class III.

(1) Imprisonment, which is one of the disabilities enumerated in the 21st Jac. 1, c. 16, s. 2. (See *Evans's Statutes*, Part IV., Class VIII.), is not included in those contained in this and the other recent acts of limitation.

No. III.
3 & 4 W. 4,
c. 42.

The limitation
after judgment
or outlawry
reversed.

No part of the
united kingdom,
&c. to be
deemed beyond
the seas within
the meaning of
this act.

same, beyond the seas, then within twenty years after such disability shall have ceased as aforesaid, or the party shall have returned from beyond seas, as the case may be; and the plaintiff or plaintiffs in any such action on any indenture, specialty, or recognizance may, by way of replication, state such acknowledgment, and that such action was brought within the time aforesaid, in answer to a plea of this statute.

VI. And nevertheless be it enacted, if in any of the said actions judgment be given for the plaintiff, and the same be reversed by error, or a verdict pass for the plaintiff, and upon matter alleged in arrest of judgment the judgment be given against the plaintiff, that he take nothing by his plaint, writ, or bill, or if in any of the said actions the defendant shall be outlawed, and shall after reverse the outlawry, That in all such cases the party plaintiff, his executors or administrators, as the case shall require, may commence a new action or suit from time to time within a year after such judgment reversed, or such judgment given against the plaintiff, or outlawry reversed, and not after.

VII. That no part of the united kingdom of Great Britain and Ireland, nor the islands of Man, Guernsey, Jersey, Alderney, and Sark, nor any islands adjacent to any of them, being part of the dominions of his Majesty, shall be deemed to be beyond the seas within the meaning of this act, or of the act passed in the twenty-first year of the reign of king James the first, intituled *An Act for Limitation of Actions, and for avoiding of Suits in Law.* (1)

(1) Previous to this enactment, Dublin, or any place in Ireland, was beyond the seas within the meaning of the 21 Jac. c. 16.

PART IV.

CLASS IX.

JURIES AND TRIALS.

[No. I.] 2 W. 4, c. 47.—An Act for holding the Assizes for the County of Norfolk, and for the City of Norwich and County of the same City, twice in every Year at Norwich. [23rd June 1832.]

WHEREAS it is expedient that the assizes for the city of Norwich and county of the same city be held twice in each year in the said city and county of the said city: And whereas the holding the same as aforesaid would be conducive to the more speedy and effective and due administration of justice therein: And whereas it is likewise expedient that the assizes for the county of Norfolk should henceforth be held twice in each year in and at the shire-house at the castle of Norwich: Be it therefore enacted, &c. That from and after the first day of January one thousand eight hundred and thirty-three all the commissions of assize and nisi prius, and all general commissions of oyer and terminer, and all commissions of general gaol delivery, which shall be appointed to be held and executed for the said city of Norwich and county of the said city, and for the said county of Norfolk, respectively, shall be held and executed for the said city of Norwich and county of the said city at and in the said city of Norwich and county of the said city, and for the said county of Norfolk, in the shire-house at the castle of Norwich; and that the said commissions for the said city of Norwich and county of the said city, and for the said county of Norfolk, respectively, shall be appointed and executed at and in the said city of Norwich and county of the said city, and at and in the said shire-house at the castle of Norwich, twice in every year, (that is to say,) at or about the usual times for holding the lent and summer assizes respectively; any law, statute, usage, matter, or thing to the contrary notwithstanding.

II. Provided always, That if at any time hereafter the said city of Norwich and county of the said city, or the said shire-house at the castle of Norwich shall be wholly unfit for holding assizes there, by accident of fire, or by means of any contagious or epidemical distemper, or by reason of any civil tumults or disorder, or the danger or reasonable apprehension thereof, or by reason of any other unforeseen cause or exigency, the same or any of the aforesaid matters to be made to appear before the lord high chancellor, or lord keeper or lords commissioners for keeping the great seal, for the time being, that then and in such cases only it shall and may be lawful to and for the said lord high chancellor, or lord keeper or lords commissioners for keeping the great seal, for the time being, with the advice of the justices of assize, from time to time in and during the continuance of such respective exigencies only, and for and at no other time or times, to appoint some convenient place within the said county of Norfolk for holding the said assizes, and each or either of them, instead of the said city of Norwich and county of the said city, or the said shire-house at the castle of Norwich, any thing in this present act contained to the contrary notwithstanding.

[No. II.] 2 & 3 W. IV. c. 60.—An Act for holding the Assizes for the King's County in Ireland, Twice in every Year, at Tullamoore, instead of Philipstown.

[4th July 1832.]

Assizes to be held in future at Tullamoore instead of Philipstown.

WHEREAS it is expedient that the assizes for the king's county in that part of the united kingdom called Ireland be held twice in each year in the town of Tullamoore, instead of in the town of Philipstown in the said king's county: And whereas the holding the same as aforesaid would be conducive to the more speedy and effective and due administration of justice therein; be it therefore enacted, &c., That from and after the first day of July one thousand eight hundred and thirty-five the said town of Tullamoore aforesaid shall be deemed and taken to be the shire town of the said county, and that all the commissions of assize and nisi prius, and all general commissions of oyer and terminer, and all commissions of general gaol delivery, which shall be appointed to be held and executed for the said king's county shall be held and executed for the said king's county, at and in the said town of Tullamoore; and that the said commissions for the said king's county shall be appointed and executed at and in the said town of Tullamoore twice in every year, (that is to say) at or about the usual times for holding the lent and summer assizes respectively; any law, statute, usage, matter, or thing to the contrary notwithstanding.

Proviso for holding assizes in case of accident to the town of Tullamoore.

II. Provided always, and it is hereby enacted and declared, That if at any time hereafter the said town of Tullamoore shall be wholly unfit for holding assizes there, by accident of fire, or by means of any contagious or epidemical distemper, or by reason of any civil tumults or disorder, or the danger or reasonable apprehension thereof, or by reason of any other cause or exigency, the same or any of the aforesaid matters to be made to appear before the lord high chancellor, or lord keeper or lords commissioners for keeping the great seal of Ireland, for the time being, that then and in such cases only it shall and may be lawful to and for the said lord high chancellor, or lord keeper or lords commissioners for keeping the great seal of Ireland for the time being, with the advice of the justices of assize, from time to time in and during the continuance of such respective exigencies only, and for and at no other time or times, to appoint some convenient place within the said king's county for holding the said assizes, and each or either of them, instead of the said town of Tullamoore; any thing in this present act contained to the contrary notwithstanding.

Tullamoore to be deemed a town within the meaning of 53 G. 3. c. 131.

III. That the said town of Tullamoore shall, from and after the passing of this act, be deemed and taken to be, for the purposes aforesaid, a town and place for holding whereat the assizes of said county, provision may be made by all such ways and means as are prescribed for providing for the holding of the assizes of any county, county of a city, or county of a town, under and by virtue of an act passed in the fifty-third year of the reign of his Majesty king George the third, intituled *An Act to make further regulations for the building and repairing of Court Houses and and Sessions Houses in Ireland.*

[No. III.] 3 & 4 W. IV. c. 42.—An Act for the further Amendment of the Law, and the better Advancement of Justice.
[14th August 1833.]

XVI. And whereas it would also lessen the expence of trials and prevent delay if such writs of inquiry as herein-after mentioned were executed, and such issues as herein-after mentioned were tried, before the sheriff of the county where the venue is laid; be it therefore enacted, That all writs issued under and by virtue of the statute passed in the session of parliament held in the eighth and ninth years of the reign of king William the third, intituled *An Act for the better preventing frivolous and vexatious suits*, shall, unless the court where such action is pending, or a judge of one of the said superior courts, shall otherwise order, direct the sheriff of the county where the action shall be brought to summon a jury to appear before such sheriff, instead of the justices or justice of assize or nisi prius of that county, to inquire of the truth of the breaches suggested, and assess the damages that the plaintiff shall have sustained thereby, and shall command the said sheriff to make return thereof to the court from whence the same shall issue at a day certain, in term or in vacation, in such writ to be mentioned; and such proceedings shall be had after the return of such writ as are in the said statute in that behalf mentioned, in like manner as if such writ had been executed before a justice of assize or nisi prius (1).

XVII. That in any action depending in any of the said superior courts for any debt or demand in which the sum sought to be recovered, and endorsed on the writ of summons, shall not exceed twenty pounds (2), it shall be lawful for the court in which such suit shall be depending or any judge of any of the said courts, if such court or judge shall be satisfied that the trial will not involve any difficult question of fact or law, and such court or judge shall think fit so to do, to order and direct that the issue or issues joined shall be tried before the sheriff of the county where the action is brought, or any judge of any court of record (3) for the recovery of debt in such county, and for that purpose a writ shall issue directed to such sheriff, commanding him to try such issue or issues, by a jury to be summoned by him, and to return such writ with the finding of the jury thereon indorsed, at a day certain, in term or in vacation, to be named in such writ; and thereupon such sheriff or judge shall summon a jury, and shall proceed to try such issue or issues (4).

(1) See the act 8 & 9 W. 3, c. 11, *Evans's Statutes, Part IV. Class XII.*

(2) This provision does not extend to a case in which the action, though not exceeding twenty pounds, is commenced by a writ of *capias* and detainer, or to a case where the debt is not indorsed on the writ of summons, or to a claim for a tort. *Watson v. Abbot*, 2 Cr. & M. 150; 2 Dowl. P. C. 215.

(3) Where a writ of trial was directed to the mayor of Colchester (who was judge of a court of record), and the trial took place before his deputy, the court refused to set aside the proceedings, on a suggestion that the mayor had no authority to delegate the power, it not appearing he had the power to appoint a deputy. *Clarke v. Marnor*, 4 Mo. & S. 171; 2 Dowl. 774.

(4) Where the plaintiff obtains an order to try before the sheriff, he must proceed in reasonable time, or the court will grant a rule to show cause why he should not proceed, or why the defendant should not have judgment as in case of a nonsuit; *Mullins v. Bishop*, 2 Dowl. P. C. 557. The time at which the plaintiff will be compelled to proceed will be regulated by the time when the sheriff sits; *Banks v. Wright*, 3 Dowl. 14. The defendant may move for judgment as in case of a nonsuit, as well where the issue is directed to be tried before the sheriff as where it comes on at the sittings; but it is too soon to move in the same term in which the default is, and where it does not appear that the notice was countermanded; *Begbie v. Grenville*, 2 Dowl. 238; *Walls v. Redmayne*, id. 508; and *Horwood v. Roberts*, id. 534. *Patteson, J.*, said—"I have referred to the judges on this subject, and we are of opinion, that all proceedings preparatory to the trial of the issue before the sheriff must be considered as the course and practice of this court; they have, consequently, all the incidents connected with them. The plaintiff not having proceeded within two terms after issue joined, the defendant is entitled to judgment as in case of a nonsuit."

No. III.
3 & 4 W. 4,
c. 42.

Upon the return of a writ of inquiry or a trial of issues, judgment to be signed, unless, &c.

Sheriff, as to such issues, to have the like powers as judges at nisi prius.

Provisions of 1 W. 4. c. 7, to extend to such writs of inquiry and issues.

Sheriffs to name deputies to be resident in London.

XVIII. That at the return of any such writ of inquiry, or writ for the trial of such issue or issues as aforesaid, costs shall be taxed (1), judgment signed, and execution issued forthwith, unless the sheriff or his deputy before whom such writ of inquiry may be executed, or such sheriff, deputy, or judge before whom such trial shall be had, shall certify under his hand upon such writ that judgment ought not to be signed until the defendant shall have had an opportunity to apply to the court for a new inquiry or trial, or a judge of any of the said courts shall think fit to order that judgment or execution shall be stayed till a day to be named in such order; and the verdict of such jury on the trial of such issue or issues shall be as valid and of the like force as a verdict of a jury at nisi prius; and the sheriff or his deputy, or judge, presiding at the trial of such issue or issues, shall have the like powers with respect to amendment on such trial as are herein-after given to judges at nisi prius (2).

XIX. Provided also, That all and every the provisions contained in the statute made and passed in the first year of the reign of his present Majesty, intituled *An Act for the more speedy Judgment and Execution in Actions brought in his Majesty's Courts of Law at Westminster, and in the Court of Common Pleas of the County Palatine of Lancaster, and for amending the Law as to Judgment on a Cognovit actionem in Cases of Bankruptcy*, shall, so far as the same are applicable thereto, be extended and applied to judgments and executions upon such writs of inquiry and writs for the trials of issues, in like manner as if the same were expressly re-enacted herein (3).

XX. That from and after the first day of June one thousand eight hundred and thirty-three the sheriff of each county in England and Wales shall severally name a sufficient deputy, who shall be resident or have an office within one mile from the Inner Temple hall, for the receipt of writs, granting warrants thereon, making returns thereto, and accepting of all rules and orders to be made on or touching the execution of any process or writ to be directed to such sheriff.

It seems that the sheriff, on a writ of trial, cannot put off the trial, but that the application must be made to a judge; *Packam v. Newman*, 1 C. M. & R. 584. The defendant is entitled to have a suggestion entered under the London Court of Requests Act, though the cause was tried before the sheriff by the defendant's consent; and though the motion for that purpose was not made till after the costs had been taxed, final judgment signed, and execution issued; *Bond v. Bailey*, 3 Dowl. 806.

Where a motion for a new trial of a cause tried before the under-sheriff was made on the notes of the under-sheriff, certified under his seal only, and verified by affidavit, the court discharged the rule; *Johnson v. Wells*, 4 Tyr. 270; 2 C. & M. 429; 2 Dowl. 352, S. C.; and see *Burney v. Mawson*, 1 Ad. & Ell. 348, n. In order to save expence, the practice recognized by the judges now is to receive the notes of the under-sheriff, &c. verified by affidavit; 2 Dowl. 352, n.; *Stephen v. Pell*, id. 629; *Mansfield v. Breary*, 1 Ad. & Ell. 347. The proper course is to have the notes verified by affidavit, without affidavit of the facts; *Grainger v. Shoppee*, 2 Dowl. 644. When the under-sheriff refuses to send his notes, a motion for a new trial must be made on affidavit of the facts; *Thomas v. Edwards*, 4 Tyr. 833, 1 C. M. & R. 382; S. C. But see *Metcalfe v. Parry*, 2 Dowl. 589, where the court granted a rule, calling on the under-sheriff to shew cause why he should not pay the expences incurred in consequence of his refusal. But he is not answerable for his agents withholding them, unless his agent acted under his direction; 3 Dowl. 93, S. C. The court will allow further time to make a motion for a new trial, if the under-sheriff does not furnish notes in proper time; *Thomas v. Edwards*, 2 Dowl. 664.

(1) The plaintiff, unless otherwise ordered, may get his costs taxed, and sign judgment directly after the verdict is obtained, even on the same day. *Nichols v. Chambers*, 2 Dowl. 693; 1 C. M. & R. 385.

(2) A sheriff or judge of an inferior court has no power to grant a certificate as to costs under the 43 Eliz. c. 6, upon a writ of trial. *Wardroper v. Richardson*, 1 Ad. & Ell. 75.

(3) Under this section the court will, in the next term, entertain a motion to vacate and arrest a judgment signed in vacation, after a trial before the sheriff. *Pyke v. Glendinning*, 2 Dowl. 611.

XXVIII. That upon all debts or sums certain, payable at a certain time or otherwise, the jury on the trial of any issue, or on any inquisition of damages, may, if they shall think fit, allow interest to the creditor at a rate not exceeding the current rate of interest from the time when such debts or sums certain were payable, if such debts or sums be payable by virtue of some written instrument at a certain time, or if payable otherwise, then from the time when demand of payment shall have been made in writing, so as such demand shall give notice to the debtor that interest will be claimed from the date of such demand until the term of payment; provided that interest shall be payable in all cases in which it is now payable by law.

No. III.
3 & 4 W. 4,
c. 42.

Jury empowered to allow interest upon debts.

XXIX. That the jury on the trial of any issue, or on any inquisition of damages, may, if they shall think fit, give damages in the nature of interest, over and above the value of the goods at the time of the conversion or seizure, in all actions of trover or trespass de bonis asportatis, and over and above the money recoverable in all actions on policies of assurance made after the passing of this act.

In certain actions the jury may give damages in the nature of interest.

[No. IV.] 3 & 4 W. IV. c. 71.—An Act for the Appointment of convenient Places for the holding of Assizes in England and Wales. [28th August 1833.]

WHEREAS by a statute made in the sixth year of the reign of king Richard the second it was ordained that the justices assigned to take assizes and deliver the gaols should hold their sessions in the principal and chief towns of every of the counties where the shire courts of the same counties should be holden: And whereas by a statute made in the eleventh year of the same reign, reciting so much of the said statute of the sixth year as is herein-before recited, and stating that the said statute was in part prejudicial and grievous to the people of divers counties in England, it was provided that the chancellor of England for the time being should have power thereof to make and provide remedy, by advice of the justices, from time to time when need should be, notwithstanding the said statute: And whereas the places at which the assize are now held in various counties of England and Wales are inconvenient to the inhabitants thereof, and it would conduce to the more cheap, speedy, and effectual administration of justice to appoint other places instead thereof for the holding of assizes; but doubts may be entertained whether that object can be fully effected by virtue of the statutes herein-before referred to; be it therefore enacted, &c., That so much of each of the said statutes as is herein-before recited shall be and the same is hereby repealed.

6 Ric. 2, c. 5.

11 Ric. 2, c. 11

Recited statutes in part repealed.

II. And be it declared and enacted, That his Majesty, by and with the advice of his most honourable privy council, shall have power from time to time to order and direct at what place or places in any county in England or Wales the assizes and sessions under the commissions of gaol delivery, and other commissions for the dispatch of civil and criminal business, shall be holden, and to order and direct such assizes and sessions for the dispatch of criminal and civil business to be holden at more than one place in the same county on the same circuit, and to order and direct the assizes and sessions under such commissions for the dispatch of criminal business to be holden for the whole county at one place and for the dispatch of civil business at one or more place or places in such county, on the same circuit; and further to order and direct any special commissions of oyer and terminer and gaol delivery to be holden at any one or more places in any such county.

His Majesty in council may direct at what places in any county assizes and sessions of gaol delivery shall be held, and that they may be holden in more than one place in a county on the same circuit.

III. That in case his Majesty, by and with the advice of his most honourable privy council, shall think fit to order and direct that the

Power to divide counties for the

No. IV.
3 & 4 W. 4,
c. 71.

purpose of
holding assizes
in different
divisions of the
same county.

Power to direct
the court of
common pleas
at Lancaster
to be holden at
any one or
more places in
the county, and
to divide the
county for that
purpose.

assizes or any such special commissions shall be holden at more than one place in any one county, it shall be lawful for his Majesty, by and with the advice aforesaid, to divide any such county for the purposes of this act, and to make rules and regulations touching the venue in all cases, civil and criminal, then pending or thereafter to be pending and to be tried within any division of such county so to be made as aforesaid: and touching the liability and attendance of jurors, whether grand jurors, special jurors, or common jurors, at the assizes and sessions as aforesaid, or at any sessions under any special commissions to be holden with any such division; and touching the use of any house of correction or prison as a common gaol, and the government and keeping thereof; and touching the alterations of any commissions, writs, precepts, or other proceedings whatsoever for carrying into effect the purposes of this act; and touching any other matters that may be requisite for carrying into effect the purposes of this act; and all such rules and regulations shall be of the like force and effect as if the same had been made by the authority of parliament, and shall be notified in the *London Gazette*, or in such other manner as his Majesty, by and with the advice of his most honourable privy council, shall think fit to direct.

IV. That his Majesty shall have power from time to time, for the purpose of carrying this act into effect, to order and direct that the court of common pleas at Lancaster shall be holden at any one or more places in the county palatine of Lancaster, as he shall think fit, and to divide the said county palatine for the purpose of the trial of civil causes and the transaction of other civil business in the said court, and to make the like rules and regulations touching the venue in civil cases to be tried within any division of the said county, and the liability and attendance of jurors, whether special or common, at the court to be held within any such division, and touching the alterations of commissions, writs, precepts, or other proceedings for carrying into effect the purposes of this act, and touching any other matter that may be requisite for carrying into effect the purposes of this act; and all such rules and regulations shall be of the like force and effect as if the same had been made by the authority of parliament, and shall be notified in the *London Gazette*, or in such other manner as his Majesty shall think fit.

[No. V.] 3 & 4 W. IV. c. 91.—An Act for consolidating and amending the Laws relative to Jurors and Juries in Ireland (1). [28th August, 1833.]

WHEREAS the laws relative to the qualifications and summoning of jurors and the formation of juries in Ireland are numerous and complicated; and it is expedient to consolidate and simplify the same, and to alter the mode of striking special juries, and in some respects to amend the said laws; be it therefore enacted, &c. That the sheriff of any county, county of a city, or county of a town in Ireland shall not, in answer to any writ of venire facias or precept for the return of jurors, return the names of any persons not qualified to serve on juries according to the provisions of this act; and that every man, except as herein-after excepted, between the ages of twenty-one years and sixty years, residing in any county in Ireland, who shall have, in his own name or in trust for him, within the same county, ten pounds by the year above reprises in lands or tenements, or in rents issuing out of any lands or tenements, or in lands, tenements, and rents taken together, in fee simple, fee tail, or for the life of himself or some other person or persons, or who shall

Sheriffs not to
return any per-
sons as jurors
who are not
qualified ac-
cording to this
act.

Age and quali-
fication of
jurors

have within the same county fifteen pounds by the year above reprises in lands or tenements held by lease or leases originally made for an absolute term of not less than twenty-one years, whether the same shall or shall not be determinable on any life or lives, and also every resident merchant, freeman, and householder having a house and tenements in any city, town, or borough, situate within the said county, of the clear yearly value of twenty pounds, such city, town, or borough not being a county in itself, shall be qualified with respect to property, and shall be liable to serve on juries for the trial of all issues joined in any of the king's courts of record in Dublin, and in all courts of assize, nisi prius,oyer and terminer, and gaol delivery, such issues being respectively triable in the county in which every man so qualified respectively shall reside, and shall also be qualified with respect to property, and liable to serve on grand juries in courts of sessions of the peace, and on petty juries for the trial of all issues joined in such courts of session of the peace, and triable in the county in which every man so qualified respectively shall reside; and that every man, except as herein-after excepted, being between the aforesaid ages, residing in any county of a city or county of a town in Ireland, and being there qualified as aforesaid, and also every resident merchant, freeman, and householder having lands or tenements or personal estate of the value of one hundred pounds, shall be qualified with respect to property, and shall be liable to serve as a juror for the trial of all issues joined in any of his Majesty's courts of record at Dublin, and in all courts of assize, nisi prius,oyer and terminer, and general delivery, such issues being respectively tried in the said city or town in which every man so qualified shall respectively serve.

II. Provided always, That all peers; all judges of the king's courts of record in Dublin; all clergymen in holy orders; all persons who shall teach or preach in any religious congregation; all serjeants and barristers at law actually practising; all assistant barristers; all judges of ecclesiastical courts; all advocates in ecclesiastical courts or in courts of the civil law, actually practising; all attorneys, solicitors, and proctors duly admitted in any court of law or equity, or of ecclesiastical or admiralty jurisdiction, in which attorneys, solicitors, and proctors have usually been admitted, actually practising and having duly taken out their annual certificates; all officers of any such courts, or of any court of criminal jurisdiction, actually exercising the duties of their respective offices; all public notaries duly admitted; all coroners, gaolers, and keepers of houses of correction; all members and licentiates of the king and queen's college of physicians in Ireland actually practising, and all other physicians actually practising; all surgeons, being members of one of the royal colleges of surgeons in London, Edinburgh, or Dublin, and actually practising; all apothecaries certificated by the court of examiners of the governor and company of the apothecaries hall of the city of Dublin, and actually practising; all officers in his Majesty's navy or army on full pay; all officers of customs and excise; all sheriffs officers, police constables, and parish clerks; all postmasters general and their deputies, and all other persons employed and acting in the service of his Majesty's post office; all treasurers, secretaries of grand juries, shall be and are hereby absolutely freed and exempted from being returned, and from serving upon any juries or inquests whatsoever, and shall not be inserted in the lists to be prepared by virtue of this act as herein-after mentioned: Provided also, that all persons exempt from serving upon juries in any of the courts aforesaid, by virtue of any prescription, charter, grant, or writ, shall continue to have and enjoy such exemption, in as ample a manner as before the passing of this act, and shall not be inserted in the lists herein-after mentioned.

III. Provided also, That no man, not being a natural-born subject of the king, is or shall be qualified to serve on juries or inquests, except only in cases herein-after expressly provided for; and no man who hath been or shall be attainted of any treason or felony, or convicted of any

Exemptions
from serving on
juries.

Aliens disqualified,
except on
juries de me-
diatate;

No. V.
3 & 4 W. 4,
c. 91.

Convicts or out-
laws, &c. dis-
qualified.

Clerk of the
peace to issue
precept to col-
lectors of grand
jury cess in
July.

Clerk of the
peace to annex
printed forms of
returns to his
precepts.

Where there
are several col-
lectors, each to
be responsible
for the duties
required by this
act.

Collector of
county cess
shall make out
alphabetical
list of persons
liable to serve
on juries, with
residences, &c.

Collectors to
deliver lists to
clerk of peace,
&c.

At October ses-
sions, place and
time to be fixed
for considering
lists.

crime that is infamous, unless he shall obtain a free pardon, nor any man who is under outlawry by virtue of any criminal process, or under excommunication, is or shall be qualified to serve on juries or inquests in any court or on any occasion whatsoever.

IV. And, for the assistance of the sheriff in framing the jurors book, be it further enacted, That the clerk of the peace in every county and clerk of the peace in every county of a city and county of a town in Ireland shall, within one week after the commencement, in every year, of the midsummer sessions herein-after next mentioned, issue and deliver his precept (in the form set forth in the schedule hereunto annexed, or as near thereto as may be,) to the high constable and collectors of grand jury cess in each barony, half barony, or other district of collection, and to the collectors of other cess or assessment where no grand jury cess is levied, requiring such collectors respectively to prepare and make out, within one month then next ensuing, a true list of all men residing within their respective districts qualified with respect to property, and liable to serve on juries according to this act as aforesaid, and also to perform and comply with all other the requisitions in the said precepts contained.

V. That every such clerk of the peace shall cause a sufficient number of precepts and returns to be printed according to the several forms set forth in the schedule marked (A.) hereunto annexed, at the expence of the county, city, or town, and shall annex to every precept a competent number of returns for the use of the respective persons by whom such returns are to be made.

VI. Provided always, That where, in any barony, half barony, or other district of collection, there shall be more than one such collector, in such case the clerk of the peace or town clerk shall issue and deliver his precept to every one of such collectors, each of whom shall be individually liable for the due performance of the several matters commanded in such precept throughout the whole of such barony, half barony, or other district, and shall for the nonperformance thereof be subject to all and every the penalties by this act imposed upon any such collector.

VII. That such high constable and collector or collectors shall forthwith, after the receipt of such precept from the clerk of the peace, prepare and make out in alphabetical order a true list of every man residing within their respective districts of collection who shall be qualified and liable to serve on juries as aforesaid, with the christian and surname written at full length, and with the true place of abode, the title, quality, calling, or business, and the nature of the qualification of every such man, in the proper columns of the form of return set forth in the schedule marked (B.) hereunto annexed.

VIII. That such high constable and collector or collectors, having made out according to this act a list of every man within his or their district qualified and liable to serve on juries as aforesaid, shall, within one month from the receipt of such precept as aforesaid, deliver a true copy of such list to the clerk of the peace of the county, and of every county of a city and county of a town, who shall respectively keep the same for a period of three weeks from the delivery thereof in their respective offices, to be perused by any of the inhabitants of such county, county of a city, or county of a town, at any reasonable time during such three weeks, without any fee or reward, and shall after the expiration of such three weeks lay the same before the justices assembled at special sessions in manner herein-after provided.

IX. That the justices assembled at every October general or quarter sessions of the peace to be holden in each division of each county at large, and the justices for and in each county of a city and county of a town in Ireland, shall, at a sessions to be holden at October in every year, fix a place within such division and within such counties of cities and counties of towns respectively, and also a time not less than two nor more than three calendar months after the first day of such general or quarter sessions, for holding a special sessions for the purpose of

examining the said lists of jurors pursuant to the provisions herein-contained, and shall give public notice of such place and time; at which place and time such justices shall attend; and such high constables and collectors as aforesaid, within such divisions of counties and within such counties of cities and counties of towns respectively, shall attend the said justices, and shall answer upon oath such questions touching the same as shall be put to them by the justices then present; and if any man not qualified or not liable to serve on juries as aforesaid shall be inserted in any list so produced, it shall be lawful for the said justices, if satisfied, from the oath of any party examined before them, or from other proof, or upon their own knowledge, that he is not qualified or not liable to serve on juries, to strike his name out of such list, and also to strike thereout the name of any man disabled by lunacy or imbecility of mind, or by deafness or blindness or other permanent infirmity, from serving on juries; and it shall also be lawful for such justices to insert in such list the name of any man omitted and who ought to have been inserted therein, and likewise to reform any errors or omissions which shall appear to them to have been committed in respect to the name, place of abode, title, quality, calling, business, or the nature of the qualification of any man included in any such list: Provided always, that no man's name, if omitted, shall be inserted in such list, nor shall any man's name be struck out of such list, nor shall any error or omission in the description of any man in such list be reformed by the said justices, unless upon the application of such men respectively, or unless such men respectively shall have had notice that an application for such purpose would be made to the justices at such special sessions, or unless the said justices at such sessions, or any two of them, shall cause notice to be given to such men respectively, requiring them to show cause, either at the same special sessions, or at an adjournment thereof to be holden within four days thereafter, and at such time and place as the said justices shall in such notice specify, why their names should not be inserted or struck out of such list, or why any error or omission in the description of such men in such list should not be reformed; and when every such list shall be duly corrected by the justices present at such special sessions or adjournment thereof, and allowed and signed by them or three of them, they the said justices shall cause one general list to be made out therefrom, containing the names of all persons whose qualification shall have been so allowed, arranged according to rank and property; and the presiding justices at such sessions shall deliver the same to the clerk of the peace who shall thereupon cause the same to be truly and fairly copied, in the same order, in a book to be by him provided for that purpose, at the expence of the county, city, and town respectively, with proper columns for making the register herein-after directed, and shall forthwith deliver the same book to the sheriff of the county, city, or town or his under sheriff, or the town clerk, which book shall be called "The Jurors Book for the Year

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Lists to be there produced considered, reformed, and allowed.

Justices to deliver one general amended list to clerk of the peace to be kept among the records of the county, and copied into a book, to be delivered to sheriff.

" (inserting the calendar year for which such book is to be in use), and that every sheriff, on quitting his office, shall deliver the same to the succeeding sheriff; and that every jurors book so prepared shall be brought into use on the first day of January after it shall be so delivered by the clerk of the peace to the sheriff or his under sheriff, and shall be used for one year then next following.

Sheriff to deliver the book to his successor.

X. That every writ of venire facias juratores, for the trial, in any county, county of a city, or county of a town, of any issue whatsoever, whether civil or criminal, or on any penal statute, in any of the courts herein-before mentioned, shall direct the sheriff of such county, city, or town to return twelve good and lawful men of the body of his county, qualified according to law, and the rest of the writ shall proceed in the accustomed form; and that every precept to be issued for the return of jurors before courts of oyer and terminer, gaol delivery, and sessions of the peace, in Ireland, shall in like manner direct the sheriff to return a competent number of good and lawful men of the body of his county,

Form of venire facias and of precept for jurors at gaol deliveries and sessions of the peace.

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c. 91.

Juries to be re-
turned from
jurors book by
sheriff, and by
coroners and
elisors.

qualified according to law, and shall not require the same to be returned from any particular venue within the county; any law, custom, or usage to the contrary notwithstanding.

XI. That the sheriff shall not, in answer to any writ of venire facias, or precept for the return of jurors, return the names of any persons not contained in the jurors book for the then current year; and that where process for returning a jury for the trial of any of the issues aforesaid shall be directed to any coroner, elisor, or other minister, he shall have free access to the jurors book for the current year, and shall not return the names of any persons not contained in the said book: Provided always, That if there shall be no jurors book in existence for the current year, it shall be lawful to return jurors from the jurors book for the year preceding; and that if it shall happen that any person not in the jurors book shall be returned, and any trial shall proceed, and verdict be found, without any objection to any such person as a juror, such trial shall not be deemed a mis-trial, nor shall the verdict thereon be impeached or questioned on account of the return of such juror; provided that nothing herein contained shall be construed to prevent any sheriff, or other returning officer, in making returns to any writ of venire or precept, from exercising his discretion in framing the panel annexed to such returns in such manner as he is now by law directed to do, save only so far as to prevent the insertion in such panel of any names not contained in the said jurors book.

Sheriff, &c. on
return of writs
of venire facias,
to annex a
panel of jurors,
&c.

XII. That every sheriff or other minister to whom the return of juries for the trial of issues before any court of assize or nisi prius in any county, city, or town of Ireland may belong, shall, upon his return of every such writ of venire facias (unless in causes intended to be tried at bar, or in cases where a special jury shall be struck by order or rule of court), annex a panel to the said writ, containing the names, together with the places of abode and additions, of a competent number of jurors named in the jurors book; and that the names of the same jurors shall be inserted in the panel annexed to every venire facias for the trial of all issues at the same assizes or sessions of nisi prius in such county, city, or town, which number of jurors shall not be less than thirty-six nor more than sixty, unless by the direction of the judges appointed to hold the assizes or sessions of nisi prius in the same county, city, or town, or one of them, who are and is hereby empowered, by order under their or his hands or hand, to direct a greater or lesser number, and then such number as shall be so directed shall be the number to be returned; and such jury so returned shall be competent to try all the issues at that assizes or sessions of nisi prius; and that in the writ of habeas corpora juratorum or distringas subsequent to such writ of venire facias it shall not be requisite to insert the names of all the jurors contained in such panel, but it shall be sufficient to insert in the mandatory parts of such writs respectively, "The Bodies of the several persons in the Panel to this Writ annexed named," or words of the like import, and to annex to such writs respectively panels containing the same names as were returned in the panel to such venire facias, with their places of abode and additions; and that for making the returns and panels aforesaid, and annexing the same to the respective writs, the legal fee, and no other, shall be taken; and that the men named in such panels, and no others, shall be summoned to serve on juries at the then next court of assizes or session of nisi prius for the respective counties, cities, and towns named in such writs.

If plaintiff sue
forth a venire,
&c. in order to
trial, and pro-
ceed not, he
may afterwards
sue forth ano-
ther venire, &c.
and try it at

XIII. That if any plaintiff or demandant in any cause which shall be at issue in any of his Majesty's courts of record at Dublin, or any defendant in any action of quare impedit or replevin which shall be so at issue, shall sue out any writ of venire facias upon which any writ of habeas corpora or distringas with a nisi prius shall issue, in order to the trial of the said issue at the assizes or sessions of nisi prius in any county, city, or town, and shall not proceed to trial at the first assizes or sessions of nisi prius for such county, city, or town after the teste of

such writ of habeas corpora or distringas, then and in every such case (except when a view by jurors shall be directed as herein-after mentioned) such plaintiff, demandant, or defendant, whensoever he or she shall think fit to try the said issue at any other assizes or sessions of nisi prius for such county, city or town, shall sue forth a new writ of venire facias, commanding the sheriff to return anew twelve good and lawful men of the body of his county, qualified according to law, and the rest of the writ shall proceed in the accustomed manner; which writ being duly returned, a writ of habeas corpora or distringas with a nisi prius shall issue thereupon (for which the same fees shall be paid as in the case of the pluries, habeas corpora or distringas with a nisi prius), upon which such plaintiff, demandant, or defendant shall and may proceed to trial as lawfully and effectually to all intents and purposes as if no former writ of venire facias had been prosecuted in that cause, and so *toties quoties* as the case shall require; and if any defendant or tenant in any action depending in any of the said courts shall be minded to bring to trial, in any county, city, or town, any issue joined against him, where by the practice of the court he may do the same, by proviso, he shall or may, of the issuable term next preceding such intended trial to be had at the next assizes or sessions of nisi prius of such county, city, or town, sue out a new venire facias to the sheriff or other officer having the return of such process, in the form aforesaid, by proviso, and prosecute the same by writ of habeas corpora or distringas with a nisi prius, as lawfully and effectually to all intents and purposes as if no former writ of venire facias had been sued out or returned in that cause, and so *toties quoties* as the matter shall require.

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c. 91.
any subsequent
assizes.

Defendant may
do the same.

XIV. That the sheriff or other minister to whom the return of jurors for the trial of causes in any county, city, or town in Ireland may belong, shall cause to be made out a list of the names of all the jurors contained in the panels to the several writs of venire facias annexed as aforesaid, with their respective places of abode and additions; and every such sheriff or other minister shall keep such list in the office of his under sheriff or deputy for seven days at least before the sitting of the next court of assize or nisi prius; and the parties in all causes to be tried at any such court of assize or nisi prius, and their respective attorneys, shall, on demand, have full liberty to inspect such lists, without any fee or reward to be paid for inspection.

Copy of the
panel to be
kept in the she-
riff's office, for
the inspection
of the parties.

XV. Provided always, That nothing herein contained shall be construed to prevent the court of king's bench, or any court of oyer and terminer, gaol delivery, or court of sessions of the peace, from respectively having and exercising the same power and authority as they may now have and exercise, in issuing any writ or precept, or in making any award or order, orally or otherwise, for the return of a jury for the trial of any issue before any of such courts respectively, or for the amending or enlarging the panel of jurors returned for the trial of any such issue; and the return to every such writ, precept, award, or order, and the proceedings thereon, shall be made in the manner heretofore used and accustomed in such courts respectively; save and except that the jurors shall be returned from the body of the county, and not from any particular venue within the county, and shall be qualified according to this act.

Not to alter the
powers of
courts to make
orders for re-
turning juries
as heretofore.

XVI. That where in any case, either civil or criminal, or on any penal statute depending in any of the said courts of record in Dublin, it shall appear to any of the respective courts, or to any judge thereof in vacation, that it will be proper and necessary that the jurors or some of the jurors who are to try the issue in such case should have the view of the place in question, in order to their better understanding the evidence that may be given upon the trial of such issues, in every such case such court, or any judge thereof in vacation, may order a rule to be drawn up containing the usual terms, and also requiring, if such court or judge shall so think fit, the party applying for the view to deposit in the hands of the under sheriff a sum of money to be named

Where jurors
are to view
lands, &c.
court may order
special writs of
venire facias,
distringas, or
habeas cor-
pora.

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in the rule, for payment of the expences of the view, and commanding special writs of *venire facias*, *distringas*, or *habeas corpora* to issue, by which the sheriff or other minister to whom the said writs shall be directed shall be commanded to have six or more of the jurors named in such writs, or in the panels thereunto annexed (who shall be mutually consented to by the parties, or, if they cannot agree, shall be nominated by the proper officer of the respective courts of king's bench, common pleas, or exchequer, at Dublin, for the causes in their respective courts), at the place in question, some convenient time before the trial, who then and there shall have the place in question shown to them by two persons in the said writs named, to be appointed by the court or judge; and the said sheriff or other minister who is to execute any such writ shall, by a special return upon the same, certify that the view hath been had according to the command of the same, and shall specify the names of the viewers.

Viewers, in case of appearance, to be sworn upon the jury first.

XVII. That where a view shall be allowed in any case, those men who shall have had the view, or such of them as shall appear upon the jury to try the issue, and shall not be challenged off, shall be first sworn; and so many only shall be added to the viewers who shall appear as shall, after all defaulters and challenges allowed, make up a full jury of twelve.

Jurors to be summoned six days before day of attendance.

XVIII. That the summons of every man to serve on any jury, common or special, in any of the courts aforesaid, shall be made by the proper officer six days at least before the day on which the juror is to attend, by showing to the man to be summoned, or in case he shall be absent from the usual place of his abode, by leaving with some person there inhabiting, a note, in writing under the hand of the sheriff, sub-sheriff, or other proper officer, containing the substance of such summons.

Names of jurors to be delivered to clerk of judge of assize and ballotted for juries in civil courts.

XIX. That the name of each man who shall be summoned and impanelled in any court of assize or *nisi prius*, with the place of his abode and addition, shall be written on a distinct piece of parchment or card, such pieces of parchment or card being all as nearly as may be of an equal size, and shall be delivered unto the clerk of the judge of assize or *nisi prius* who is to try the cause, by the under sheriff of the county, city, or town, or other officer returning the process, and shall, by direction and care of such clerk, be put together in a box to be provided for that purpose; and when any issue shall be brought on to be tried, such clerk shall in open court draw out twelve of the said parchments or cards one after another, after having shaken them together, or in cases where any view shall have been directed and had as aforesaid, so many as, together with the viewers who shall appear and be sworn, shall be sufficient to make up the number of twelve; and if any of the men whose names shall be so drawn shall not appear, or shall be challenged and set aside, then such further number until twelve men, or such other number as, together with such viewers so appearing and sworn as aforesaid, shall make up the number of twelve, be drawn, who shall appear, and who, after all just causes of challenge allowed, shall remain as fair and indifferent; and the said twelve men, their names being marked in the panel, and they being sworn, shall be the jury to try the issue; and the names of the men so drawn and sworn shall be kept apart by themselves until such jury shall have given in their verdict and the same shall be recorded, or until such jury shall, by the consent of the parties or by leave of the court, be discharged, and then the same names shall be returned to the box, there to be kept with the other names remaining at that time undrawn, and so *toties quoties* as long as any issue remains to be tried: Provided always, That if any issue shall be brought on to be tried in any of the said courts before the jury in any other issue shall have brought in their verdict or been discharged, it shall be lawful for the court to order twelve of the residue of the said parchments or cards, not containing the names of any of the jurors who shall not have so brought in their verdict or been discharged, to be drawn in such manner

Where the jury have not brought in their verdict, twelve others to be

as aforesaid for the trial of the issue which shall be so brought on to be tried: Provided also, That where both parties shall consent thereto it shall be lawful for the court to try any issue with the same jury that shall have previously tried or been drawn to try any other issue, without their names being returned to the box and re-drawn, or to order the name or names of any man or men on such jury whom both parties may consent to withdraw, or who may be justly challenged or excused by the court, to be set aside, and another name or other names to be drawn from the box, and to try the issue with the residue of such original jury and with such man or men whose name or names shall be so drawn, and who shall appear and be approved as indifferent, and so *toties quoties* as long as any issue remains to be tried.

XX. That if any man shall be returned as a juror for the trial of any issue in any of the courts herein-before mentioned, who shall not be qualified according to this act, the want of such qualification shall be good cause of challenge, and he shall be discharged upon such challenge, if the court shall be satisfied of the fact; and that if any man returned as a juror for the trial of any such issue shall be qualified in other respects according to this act, the want of freehold shall not be accepted as good cause of challenge, either by the crown or by the party, nor as a cause for discharging the man so returned upon his own application, any law, custom, or usage to the contrary notwithstanding; provided that nothing herein contained shall extend in anywise to any special juror.

XXI. That no challenge shall be taken to any panel of jurors for want of a knight's being returned in such panel, nor any array quashed by reason of any such challenge; any law, custom, or usage to the contrary notwithstanding.

XXII. That nothing in this act contained shall in anywise be construed or deemed to repeal, alter, or affect an act made in the first session of the thirty-third year of the reign of his late Majesty king Henry the eighth, intituled *An Act that Consanguinity or Affinity, being not within the Fifth Degree, shall be no principal Challenge*; or an act made in the parliament of Ireland, in the seventh year of the reign of king William the third, intituled *An Act for Redress of Inconveniencies for Want of Proof of the Decease of Persons beyond the Seas or absenting themselves upon whose Lives Estates do depend*.

XXIII. That it is and shall be lawful for his Majesty's courts of king's bench, common pleas, and exchequer in Ireland respectively, upon motion made on behalf of the king, or upon the motion of any prosecutor, relator, plaintiff, or demandant, or of any defendant or tenant, in any case whatsoever, whether civil or criminal, or on any penal statute, excepting only indictments for treason or felony depending in any of the said courts, and the said courts and judges respectively are hereby authorized in any of the cases before mentioned to order and appoint a special jury to be struck before the proper officer of each respective court, for the trial of any issue joined in any of the said cases and triable by a jury, in such manner as herein-after directed for the striking of special juries; and every jury so struck shall be the jury returned for the trial of such issue.

XXIV. That the sheriff of every county, city, and town respectively, or his under sheriff, shall, within ten days from the delivery of the jurors book for the current year to either of them, take from such book the names of all such persons as are sons of peers, and of all baronets, knights, magistrates, and of persons who have served or been returned to serve the office of sheriff or grand juror at the assizes, and of all bankers and wholesale merchants who do not exercise retail trades, and of all trades who are possessed of personal property of the value of five thousand pounds, and of the eldest sons of such persons respectively, and if such descriptions of persons shall not be so numerous as to furnish a competent number of persons out of whom a special jury may be formed, as herein-after provided, then a sufficient number of other per-

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c. 91.

The same jury, if consented to, may try several issues in succession, without being re-drawn.

Want of qualification in common jurors to be cause of challenge.

Not to extend to special jurors.

No challenges for want of a knight.

Act not to affect Irish acts 33 H. 8, sess. 1, c. 4, & 7 W. 3, c. 8, as to consanguinity.

Court to have the power of ordering special juries to be struck before the proper officer.

What persons shall be qualified and liable to serve on special juries.

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A list thereof to be made, and a number to be prefixed to each name. Numbers to be written on separate cards and put into a box.

Officer of court to appoint the time and place for nominating special jury.

Under sheriff, or his agent, to attend officer with the special jurors list.

Officer to put all the numbers into a box, and to draw out forty-eight, and to check them with the numbers and names in the list;

and to deliver a list of the forty-eight names to each party, to be reduced as heretofore.

sons whose names are contained in the jurors book, consideration being had of the rank and property of such persons, and shall respectively cause the same to be fairly and truly copied out in alphabetical order, together with the respective places of abode and additions of such men in a separate list, to be subjoined to the jurors book, which list shall be called "The Special Jurors List," and shall prefix to every name in such list its proper number, beginning the numbers from the first name, and continuing them in a regular arithmetical series down to the last name, and shall cause the said several numbers to be written upon distinct pieces of parchment or card, being all, as nearly as may be, of equal size, and after all the said numbers shall have been so written, shall put the same together in a separate drawer or box, and shall there safely keep the same, to be used for the purpose herein-after mentioned.

XXV. That whenever any of the courts or judges above mentioned shall order a special jury to be struck before the proper officer of such court, such officer shall appoint a time and place for the nomination of such special jury; and a copy of the rule of court and of such officer's appointment shall be served on the sheriff or under sheriff of the county, city, or town in which the trial is to be had, and also on all the parties who have usually been served with the same respectively in the accustomed manner; and the said officer, at the time and place appointed, being attended by such sheriff or under sheriff or his agent, who are hereby respectively required to bring with them the jurors book and such special jurors list, or two copies thereof signed by such sheriff or under sheriff, and all the numbers so written on distinct pieces of parchment or card as aforesaid, shall, in the presence of all the parties in any of the cases aforesaid, and of their attorneys, if they respectively choose to attend, or if the said parties or their attorneys, all or any of them, do not attend, then in their absence, put all the said numbers into a box, to be by him provided for that purpose, and after having shaken them together shall draw out of the said box forty-eight of the said numbers, one after another, and shall, as each number is drawn, refer to the corresponding number in the special jurors lists, and read aloud the name designated by such number; and if at the time of so reading any name either party or his attorney shall object that the man whose name shall have been so referred to is in any manner incapacitated from serving on the said jury, and shall also then and there prove the same to the satisfaction of the said officer, such name shall be set aside, and the said officer shall instead thereof draw out of the said box another number, and shall in like manner refer to the corresponding number in the said list, and read aloud the name designated thereby, which name may be in like manner set aside, and other numbers and names shall in every such case be resorted to, according to the mode of proceeding herein-before described for the purpose of supplying names in the places of those set aside, until the whole number of forty-eight names not liable to be set aside shall be completed; and if in any case it shall so happen that the whole number of forty-eight names cannot be obtained from the special juror list, then and in that case the said officer shall fairly and indifferently take, according to the mode of nomination heretofore pursued in nominating special juries, such a number of names from the general jurors list as shall be required to make up the full number of forty eight names, all and every of which forty-eight names shall in such case be equally deemed and taken to be those of special jurors; and the said officer shall afterwards make out for each party a list of the forty-eight names, in the order in which they shall have been drawn as aforesaid, together with their respective places of abode and additions, and after having made out such lists shall return all the numbers so drawn out, together with all the numbers remaining undrawn, to such sheriff or under sheriff, or his agent, to be by such sheriff or under sheriff safely and securely kept for future use; and all the subsequent proceedings for reducing the said list of forty-eight, and all other matters whatsoever relating to special juries, shall remain and continue in force as heretofore,

except where the same or any part thereof is expressly altered by this act; and all the fees heretofore legally payable on the striking of special juries shall continue to be paid in the accustomed manner.

XXVI. That nothing herein contained shall be construed to prevent the parties in any cause, or their attorneys, from consenting to have a special jury nominated according to the mode used and accustomed before the passing of this act; and upon a consent to that effect, signed by each party or his attorney, being communicated to the proper officer, he is hereby authorized and required to nominate a special jury for the trial of every such cause according to the mode used and accustomed before the passing of this act: Provided also, that nothing herein contained shall be construed to prevent the same special jury, however nominated, from trying any number of causes, so as the parties in every such cause, or their attorneys, shall have signified their assent in writing to the nomination of such special jury for the trial of their respective causes, or shall consent thereto in open court: Provided also, that it shall be lawful for the court, if it shall so think fit, upon the application of any man who shall have served upon one special jury or more at any assizes or sessions of nisi prius, to discharge such man from serving upon any other special jury during the same assizes or session of nisi prius.

XXVII. That the person or party who shall apply for a special jury shall pay the fees for striking such jury, and all the expences occasioned by the trial of the cause by the same, and shall not have any further or other allowance for the same, upon taxation of costs, than such person or party would be entitled unto in case the cause had been tried by a common jury, unless the judge before whom the cause is tried shall immediately after the trial certify under his hand upon the back of the record that the same was a cause proper to be tried by a special jury.

XXVIII. That where a full jury shall not appear before any court of assize or nisi prius in any criminal prosecution properly triable in such court, or in any suit or action, or where, after appearance of a full jury, by challenge of any of the parties the jury is likely to remain untaken for default of jurors, every such court, upon request made for the king by any one thereto authorized or assigned by the court in cases of such criminal prosecutions as aforesaid, or on request made by the parties, plaintiff or defendant, or tenant, or their respective attorneys in any action or suit, whether popular or private, shall command the sheriff or other minister to whom the making or the return shall belong to name and appoint, as often as need shall require, twelve other able men of the county, city, or town, then present, and the sheriff or other minister aforesaid shall at such command of the court return twelve such men duly qualified, who shall be present or can be found to serve on such jury, and shall add and annex their names to the former panel; provided that where a special jury shall have been struck for the trial of any issue, the talesman shall be such as shall be impanelled upon the common jury panel to serve at the same court, if a sufficient number of such men can be found; and the names of the persons so to be named, with their additions and places of abode, shall be written on several distinct pieces of parchment or cards, being all as near as may be of equal size, and shall be delivered to the clerk of the judge before whom such issue is to be tried by the sheriff or other officer to whom the returning of such jury shall belong, and shall, by the direction and care of such clerk be rolled up all as near as may be in the same manner, and put together in a box or drawer and shaken together, and some indifferent person by direction of the court, in open court, shall draw out such pieces of parchment or card one after another, until a number shall appear which shall be sufficient, with those of the original panel who appear, to make up the number of twelve, who shall be the jury to try the said issue; and the king, by any one so authorized or assigned as aforesaid, and all and every the parties aforesaid, shall and may in each of the cases aforesaid respectively have their respective challenges to the jurors so added and

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The parties may, by consent, have a special jury struck according to the ancient mode.

The same special jury may, by consent, try any number of causes.

Court may discharge any one who has served at the same assizes.

Costs of special jury.

Tales de circumstantibus.

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Fine on jurors
making de-
fault, 10l.

Sheriff indem-
nified in return-
ing any per-
son whose name is
in the list.

If he returns
one not in the
list, or if the
clerk of assize
records appear-
ances when the
party did not
appear, to be
fined.

No money to
be taken to
excuse persons
from serving.

None to be
summoned but
those named in
the warrant.

Penalties on
collectors for
neglecting to
make out lists,
&c.

XXXII. That if any man, having been duly summoned to attend on any kind of jury in any of the courts in this act mentioned, shall not attend in pursuance of such summons, or being thrice called shall not answer to his name, or if any such man, or any talesman, after having been called, shall be present but not appear, or after his appearance shall wilfully withdraw himself from the presence of the court, the court shall set such fine upon every such man or talesman so making default (unless some reasonable excuse shall be proved by oath or affidavit) as the court shall think meet: Provided always, that where any viewer, having been duly summoned to attend on any jury, shall make default as aforesaid, the court is hereby authorized and required to set upon such viewer (unless some reasonable excuse shall be proved as aforesaid) a fine to the amount of ten pounds at the least, and as much more as the court, under the circumstances of the particular case, shall think proper.

XXXIII. That every sheriff and other minister to whom the return of juries shall belong shall be and is hereby indemnified for impanelling and returning any man named in the jurors book, although he may not be qualified or liable to serve on juries; and that if any sheriff or other such minister shall wilfully impanel and return any man to serve on any jury before any of the courts herein-before mentioned, (except on the grand jury at any assizes or sessions,) such man's name not being inserted in the jurors book for the current year, or if such book has not been delivered, then in the jurors book last delivered, or if any prothonotary, judge's clerk, clerk of the peace, town clerk, or other officer of any of the courts in this act mentioned, shall wilfully record the appearance of any man so summoned and returned who did not really appear, in every such case the court shall, upon examination in a summary way, set such fine upon such sheriff, minister, prothonotary, judge's clerk, clerk of the peace, or other officer offending, as the court shall think meet.

XXXIV. That no sheriff, under sheriff, coroner, elisor, bailiff, or other officer or person whatsoever, shall directly or indirectly take or receive any money or other reward, or promise of money or reward, or any consideration whatsoever, or the promise of any consideration, to excuse any man from serving or from being summoned to serve on juries or under any such colour or pretence; and that no bailiff or other officer appointed by any sheriff, under sheriff, coroner, or elisor, to summon juries, shall summons any man to serve thereon, other than those whose names are specified in a warrant or mandate signed by such sheriff, under sheriff, coroner, or elisor, and directed to such bailiff or other officer; and if any sheriff, under sheriff, coroner, elisor, bailiff, or other officer shall wilfully transgress in any of the cases aforesaid, or shall neglect to summon any juror, or shall summon any juror less than four days before the day on which he is to attend, except in the cases herein-before excepted, the court of assize, nisi prius, oyer and terminer, gaol delivery, or court of sessions of the peace within whose jurisdiction the offence shall have been committed, may and is hereby required, on examination and proof of such offence, in a summary way to set such a fine upon every person so offending as the court shall think meet, according to the nature of the offence.

XXXV. That if any such high constable or collector as aforesaid shall refuse or neglect (unless prevented by sickness) to make out or assist in making out any list required by this act, so that the same shall not be made out at the time and in the manner herein-before directed, or shall wilfully omit out of such list any man whose name ought to be inserted therein, or shall wilfully insert therein the name of any man who ought to be omitted, or shall take any money or other reward, or promise of money or reward, or other consideration, for omitting or inserting any man whatsoever, or shall wilfully insert therein a wrong description of the name, place of abode, title, quality, calling, business, or the nature of the qualification of any man; or shall refuse or wilfully neglect, in case the number of forms of returns delivered by the clerk of the peace shall be insufficient, to apply to the clerk of the peace for a sufficient

number, so that the list may be made out at the time and in the manner herein-before directed; or shall refuse to allow any inhabitant of their respective districts to inspect such list, or a true copy thereof, gratis, at any reasonable time during the three weeks herein-before mentioned; or shall on due notice refuse or wilfully neglect to produce such list at such sessions as aforesaid, or to answer on oath such questions touching the same as shall there be put, or to attend at such sessions or any such adjournment thereof as aforesaid; every such person offending in any of the foregoing cases shall for every such offence forfeit a sum not exceeding fifty pounds nor less than forty shillings, at the discretion of the justice before whom he shall be convicted; and the justice before whom such offender shall be convicted of any such offence of wrongful insertion or omission shall forthwith, in writing under his hand, certify the same to the clerk of the peace of the county, city, or town in which the man or men so wrongfully omitted or inserted shall reside; and the said clerk of the peace shall cause the list in which such wrongful insertion or omission shall have occurred to be corrected according to such certificate, and shall also give notice thereof to the sheriff or under sheriff, who shall correct the jurors book accordingly.

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XXXVI. That if any clerk of the peace or town clerk shall refuse or wilfully neglect to cause a sufficient number, either of precepts or forms of return, to be printed in the manner herein-before directed, or shall refuse or wilfully neglect to issue and deliver to any collector within the meaning of this act the precepts as herein-before directed, or to annex to the same such a number of the forms of return as he shall *bona fide* deem sufficient, or to deliver to any high constable or collector such additional number thereof as he may apply for within three days after such application; or shall refuse or wilfully neglect to provide or prepare a jurors book within the time or in the manner and form herein-before prescribed, or to deliver the same to the sheriff or under sheriff within the time herein-before prescribed, or to give notice to the sheriff or under sheriff of any wrongful insertion or omission certified to him by any justice of the peace as aforesaid; or if any sheriff or under sheriff shall make or cause to be made any alteration whatsoever in the list of jurors contained in the jurors book, except in the cases herein-before provided for; or if any sheriff or under sheriff of a county shall wilfully neglect or refuse to provide or prepare a list of special jurors in the manner and within the time herein-before prescribed, or shall wilfully write or cause to be written therein the name of any person not qualified, or shall wilfully omit thereout the name of any person duly qualified as a special juror, or shall neglect or refuse to write or cause to be written the several numbers contained in such list upon distinct pieces of parchment or card, in the manner and within the time herein-before prescribed, or shall subtract or destroy, or by any default or neglect lose, any of the said pieces of parchment or card, or shall wilfully neglect or refuse, upon discovery of such loss, to supply the same within five days; or if any sheriff or under sheriff shall refuse or wilfully neglect, within ten days after the next succeeding sheriff shall have entered upon office, to deliver over to him, as well all the jurors books and lists which shall be made or prepared in the year of his sheriffalty, as also such other like books and lists as were prepared in the sheriffalty of any of his predecessors, within four years then next preceding, and which were delivered over to him by any of his predecessors; every such clerk of the peace, sheriff or under sheriff, offending in any of the said cases, shall for every such offence forfeit the sum of one hundred pounds, one moiety whereof shall be to the use of his Majesty, his heirs or successors, and the other moiety, with full costs, to such person as shall sue for the same, in any of his Majesty's courts of record at Dublin, by action of debt, bill, plaint, or information, wherein no essoin, protection, or wager of law, nor more than one imparlance, shall be allowed.

Penalties on
clerks of peace,
town clerks,
and sheriffs
neglecting their
duty.

XXXVII. Provided always, That nothing herein contained shall extend or be construed to extend to deprive any alien, indicted or im-

Juries de me-
diate lingue.

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c. 91.

peached of any felony or misdemeanor, of the right of being tried by a jury *de medietate linguae*, but that on the prayer of every alien so indicted or impeached the sheriff or other proper minister shall, by command of the court, return for one half of the jury a competent number of aliens, if so many there be in the town or place where the trial is had, and if not, then so many aliens as shall be found in the same town or place, if any; and that no such alien juror shall be liable to be challenged for want of freehold or of any other qualification required by this act, but every such alien may be challenged for any other cause, in like manner as if he were qualified by this act.

Justices not to be summoned as jurors.

XXXVIII. That no justice of the peace shall be summoned or impanelled as a juror to serve at any sessions of the peace for the jurisdiction of which he is a justice.

Persons qualified to serve in civil causes not to be returned to serve on capital offences; but if sworn, not afterwards to be objected to.

XXXIX. That no man shall be impanelled or returned to serve on any jury for the trial of any capital offence in any county, city, or town, who shall not be qualified to serve as a juror in civil causes within the same county, city, or town; and the same matter and cause being alleged by way of challenge, and so found, shall be admitted and taken as a principal challenge, and the person so challenged shall and may be examined on oath of the truth of the said matter; provided that if it shall happen that any such person, not qualified as last aforesaid, shall have been impanelled on any such jury, and shall be sworn to try the issue in such case as last aforesaid, without any challenge having been taken in due time for the cause aforesaid, no objection shall ever afterwards be admitted or taken for the want of such qualification.

Qualification of jurors on writs of inquiry, &c.

XL. That no man shall be summoned or impanelled to serve as a juror in any county, city, or town in Ireland upon any inquest or inquiry to be taken or made by or before any sheriff or coroner by virtue of any writ of inquiry, or by or before any commissioners appointed under the great seal or the seal of the court of exchequer, who shall not be duly qualified according to this act to serve as a juror upon trials at nisi prius in such county, city, or town: Provided always, that nothing herein contained shall extend to any inquest of the death of any person to be taken by or before any coroner by virtue of his office, or to any inquest or inquiry to be taken or made by or before any sheriff or coroner of any liberty, franchise, city, borough, or town corporate, not being counties; but that the sheriffs and coroners in all such cases to which this act doth not extend as aforesaid shall and may respectively take and make all inquests and inquiries by jurors of the same description as they have been used and accustomed to do before the passing of this act.

Exception for coroners inquests.

Sheriffs, coroners, and commissioners may fine jurors for non-attendance.

XLI. That if any man having been duly summoned and returned to serve as a juror in any county, city, or town in Ireland, upon any inquest or inquiry before any sheriff or coroner by virtue of any writ of inquiry, or before any of the commissioners aforesaid, shall not, after being openly called three times, appear and serve as such juror, every such sheriff, or, in his absence, the under sheriff, and such coroner and commissioners respectively, are hereby authorized and required, unless some reasonable excuse shall be proved on oath or affidavit, to impose such fine upon every man so making default as they shall respectively think fit, not exceeding five pounds; and every such sheriff, under sheriff, coroner, and commissioners respectively shall make out and sign a certificate, containing the christian and surname, the residence and trade or calling of every man so making default, together with the amount of the fine imposed, and the cause of such fine, and shall transmit such certificate to the clerk of the peace or town clerk for the place in which every such defaulter shall reside on or before the first day of the quarter session next ensuing; and every such clerk of the peace and town clerk is hereby required to copy the fines so certified on the roll on which all fines and forfeitures imposed at such quarter sessions shall be copied; and the same shall be estreated, levied, and applied in like manner, and subject to the like powers, provisions, and

Fines to be enrolled by clerk of the peace, and levied as fines imposed at quarter sessions.

penalties, in all respects, as if they had been part of the fines imposed at such quarter sessions.

XLII. That all fines to be imposed under this act by any of the king's courts of record at Dublin, or by any court of assize, nisi prius, oyer and terminer, or gaol delivery, or any court of the sessions of the peace in Ireland, shall be levied and applied in the same manner as any other fines imposed by the same court; and that all other penalties hereby created (for which no other remedy is given) shall, on conviction of the offender before any one justice of the peace within the jurisdiction, be levied, unless such penalty be forthwith paid, by distress and sale of the offender's goods and chattels, by warrant under the hand and seal of such justice, who is hereby authorized to hear and examine witnesses on oath or affirmation on any complaint, and to determine the same, and to mitigate the penalty, if he shall see fit, to the extent of one moiety thereof; and all penalties the application whereof is not herein-before particularly directed shall be paid to the complainant; and for want of sufficient distress the offender shall be committed, by warrant under the hand and seal of such justice, to the common gaol or house of correction for such term not exceeding six calendar months as such justice shall think proper, unless such penalty be sooner paid.

XLIII. And for the more easy and speedy conviction of offenders against this act, be it further enacted, That the justice before whom any person shall be convicted of any offence against this act shall and may cause the conviction to be drawn up in the following form of words, or in any other form of words to the same effect, as the case shall happen; *videlicet*,

'BE it remembered, That on _____ in the year of
' our Lord _____ at _____ A. B. is con-
' victed before me C. D., one of his Majesty's justices of the peace for
' the _____ of _____ for that he the said A. B.
' did [*specifying the offence and the time and place where the same was*
' *committed, as the case shall be*]; and the said A. B. is for his said
' offence adjudged by me the said justice to forfeit and pay the
' sum of _____

' Given under my hand and seal, the day and year first above
' mentioned.'

XLIV. That no such conviction shall be quashed for want of form, or be removed or removeable by certiorari, or by any other writ or process whatsoever, into any of his Majesty's courts of record at Dublin; and that where any distress shall be made for any penalty to be levied by virtue of this act, the distress itself shall not be deemed to be unlawful, nor the party making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, warrant of distress, or other proceedings relating thereto; nor shall such party be deemed a trespasser *ab initio* on account of any irregularity which shall be afterwards done by him, but the person aggrieved by such irregularity shall and may recover full satisfaction for the special damage (if any) in an action upon the case, first giving notice in writing of the cause of action to the opposite party one calendar month before the commencement of such action; but no plaintiff shall recover in any action for such irregularity if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money to satisfy the damages and costs up to that time shall have been paid into court after such action brought, by or on behalf of the party dis-taining.

XLV. That if any suit or action shall be prosecuted against any person for any thing done in pursuance of this act, such person may plead the general issue, and give this act and the special matter in evidence at any trial to be had thereupon, or in replevin may avow generally that the goods in question were taken under and by virtue of this act; and

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3 & 4 W. 4,
c. 91.

How fines and penalties are to be recovered and applied.

Form of conviction.

Conviction not to be quashed for want of form.

Persons sued for any thing done in pursuance of this act may plead the general issue.

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c. 91.

if a verdict shall pass for the defendant or avowant, or the plaintiff shall become nonsuited, or discontinue his or her action after issue joined, or if upon demurrer or otherwise judgment shall be given against the plaintiff, the defendant or avowant shall recover double costs, and have the like remedy for the same as any defendant hath by law in other cases; and though a verdict shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant, unless the judge before whom the trial shall be shall certify his approbation of the action, and of the verdict obtained thereon.

Venue to be
laid in the
county where
the fact is
committed.

XLVI. That all actions, suits, and prosecutions to be commenced against any person for any thing done in pursuance of this act shall be laid and tried in the county where the fact was committed, unless where the defendant or avowant in such action shall be the sheriff or under sheriff or other person having the return of jury process in such county, in which case it may, at the option of the plaintiff, be laid and tried in any next adjoining county; and every such action, suit, and prosecution shall be commenced within six calendar months after the fact committed, and not otherwise; and that notice in writing of such cause of action shall be given to the defendant or defendants, or avowant or avowants, one calendar month at least before the commencement of the action.

Writs of attaint,
&c. against ju-
ries abolished.

XLVII. That from and after the passing of this act it shall not be lawful, either for the king or any one on his behalf, or for any party or parties in any case whatsoever, to commence or prosecute any writ of attaint against any jury or jurors for the verdict by them given, or against the party or parties who shall have judgment upon such verdict; and that no inquest shall be taken to inquire of the concealments of other inquests, but that all such attaints and inquests shall henceforth cease, become void, and utterly abolished; any law, statute, or usage to the contrary notwithstanding.

Embracery and
corrupt jurors
punishable by
fine and impris-
onment.

XLVIII. Provided always, and be it enacted and declared, That notwithstanding any thing herein contained, every person who shall be guilty of the offence of embracery, and every juror who shall wilfully or corruptly consent thereto, shall and may be respectively proceeded against by indictment or information, and be punished by fine and imprisonment, in like manner as every such person and juror might have been before the passing of this act.

Commence-
ment of act.

XLIX. That those parts of this act which relate to the issuing of warrants and precepts for the return of jury lists, the preparation, production, reformation, and allowance of those lists, the holding of sessions for those purposes, the formation of a jurors book, and the delivery thereof to the sheriff, and the preparation of a list of special jurors, and of parchment or cards, in the manner heretofore mentioned, shall commence and take effect so soon after the passing of this act as the proper periods for doing those things shall occur; and that the rest of this act shall commence and take effect on the first day of January in the year one thousand eight hundred and thirty-four.

Repeal of an-
cient acts ex-
tending to Ire-
land; viz.
43 H. 3,

52 H. 3, c. 14.
c. 24.

13 E. 1, c. 30.
c. 38.

21 E. 1, st. 1.

L. That from and after the commencement of the several parts of this act, the several statutes and acts, and parts of statutes and acts, herein-after mentioned, so far as the same relate to Ireland, shall be repealed; (that is to say,) so much of the provisions made in the forty-third year of the reign of king Henry the third as relates to exemptions from assizes, juries, and inquests; and so much of a statute made in the fifty-second year of the same reign as relates to the like exemptions; and so much of the same statute as provides that all, being twelve years of age, ought to appear at inquests for the death of man; and so much of a statute made at Westminster in the thirteenth year of the reign of king Edward the first as directs that the justices shall not put in assizes or juries any other than those that were first summoned to the same at first; and so much of the same statute as ordains how many and what sort of persons shall be returned on juries and petty assizes; and a statute made in the twenty-first year of the same reign, intituled

Statutum de illis qui debent poni in Juratis et Assizis; and so much of a statute made in the twenty-eighth year of the same reign, intituled *Articuli super Cartas*, as directs that the jurors shall be of the next neighbours; and an ordinance made in the thirty-third year of the same reign, commonly called *An Ordinance for Inquests*; and so much of a statute made in the thirty-fourth year of the same reign, commonly called *Ordinatio Forestæ*, as enjoins that none of the ministers therein mentioned be put in assizes, juries, or inquests without the forest; and so much of a statute made in the fifth year of the reign of king Edward the third as relates to the punishment of a corrupt juror; and so much of a statute made in the twentieth year of the same reign as relates to the punishment of embracers and corrupt jurors; and so much of a statute or ordinance made in the twenty-seventh year of the same reign, commonly called *The Ordinance of the Staples*, as prescribes the mode of trial where one party or both parties are aliens; and so much of a statute made in the twenty-eighth year of the same reign as directs that all manner of inquests and process shall be taken between aliens and denizens; and so much of a statute made in the thirty-fourth year of the same reign as accords that panels of inquests shall be of the neighbourhood; and so much thereof as directs the proceedings against jurors taking a reward to give their verdict; and so much thereof as relates to the qualification of jurors on inquests of escheat; and so much of a statute made in the thirty-sixth year of the same reign as relates to jurors on inquests of escheat; and so much of the first statute made in the thirty-eighth year of the same reign as ordains the penalty on corrupt jurors and embracers; and so much of a statute made in the forty-second year of the same reign as directs that panels in assizes shall be arrayed four days before the sessions, and that the jurors therein shall be those that have the best knowledge of the truth, and be nearest; and so much of a statute made in the seventh year of the reign of king Richard the second as relates to granting a writ of *nisi prius* at the suit of any jurors; and so much of a statute made in the eleventh year of the reign of king Henry the fourth as directs that jurors in indictments shall be returned by the sheriffs or bailiffs without the denomination of any; and so much of the second statute made in the second year of the reign of king Henry the fifth as relates to the qualifications of jurors; and so much of a statute made in the sixth year of the reign of king Henry the sixth as relates to the panels in special assizes; and so much of a statute made in the eighth year of the same reign as relates to inquests and proofs taken between aliens and denizens; and so much of a statute made in the twenty-third year of the same reign as ordains that no sheriff or under sheriff shall return any of their officers or servants in any of the cases therein mentioned; and an act passed in the first year of the reign of king Richard the third, intituled *An Act for returning sufficient Jurors*; and that the several acts and parts of acts passed in the parliament of Ireland, and herein-after mentioned, shall also be repealed; (that is to say,) an act passed in the seventh year of the reign of king Henry the sixth, intituled *An Act for the Additions of Jurors*; and also an act passed in the thirteenth year of the reign of king Henry the eighth, intituled *An Act touching Jurors to pass in Attaint*; and also an act passed in the second session of the tenth year of the reign of king Charles the first, intituled *An Act concerning the Appearance of Jurors in the Nisi Prius*; and also an act passed in the tenth and eleventh years of the same reign, intituled *An Act for the limiting of peremptory Challenges in Cases of Treason and Felonies, and so forth*; and so much of an act passed in the sixth year of the reign of queen Anne, intituled *An Act for the Amendment of the Law, and the better Advancement of Justice*, as relates to writs of *venire facias*, and to jurors having the view; and also so much of an act passed in the sixth year of the reign of king George the first, intituled *An Act for exempting the Protestant Dissenters of this Kingdom from certain Penalties to which they are now subject*, as relates to exemptions from serving upon juries; and

No. V.

3 & 4 W. 4,
c. 91.28 E. 1, st. 3,
c. 9.33 E. 1, st. 4.
and 34 E. 1, st. 5,

c. 8.

5 E. 3, c. 10.

20 E. 3, c. 6.

27 E. 3, st. 2,
c. 8.

28 E. 3, c. 13.

34 E. 3, c. 4.

c. 8.

c. 13.

36 E. 3, st. 1,
c. 13.

38 E. 3, c. 12.

42 E. 3, c. 11.

7 R. 2, c. 7.

11 H. 4, c. 9.

2 H. 5, st. 2,
c. 3.

6 H. 6, c. 2.

8 H. 6, c. 29.

23 H. 6, c. 9.

1 R. 3, c. 4.

Repeal of acts
made in theparliaments of
Ireland; viz.

7 H. 6, c. 1.

13 H. 8, c. 3.

10 C. 1, st. 2,
c. 13.10 & 11 C. 1,
c. 9.6 Anne, c. 10,
s. 6, 7, 8.

6 Geo. 1, c. 5,

s. 11.

- No. V, also so much of an act passed in the twelfth year of the same reign, intituled *An Act for the better regulating the Office of Sheriffs, and for the ascertaining their Fees, and the Fees for suing out their Patents, and passing their Accounts*, as relates to the impanelling or return of juries ;
- 3 & 4 W. 4, c. 91. and also an act passed in the twenty-ninth year of the reign of king George the Second intituled *An Act for better regulating Juries*, so far as the same relates to counties at large ; and also so much of an act passed in the thirteenth and fourteenth years of the reign of king George the third, intituled *An Act for reviving and continuing several temporary Statutes, and to prevent the destructive Practice of trawling Fish in the Bay of Dublin*, as revives or continues the said act of the twenty-ninth year of king George the Second ; and also so much of an act passed in the seventeenth and eighteenth years of the reign of king George the third, intituled *An Act for the Amendment of the Law with respect to Outlawries, returning Special Juries, and the future Effects of Bankrupts in certain Cases*, as in anywise relates to special juries for trials in counties at large ; and also so much of an act passed in the twenty-third and twenty-fourth years of the reign of king George the third, intituled *An Act for establishing a Post Office within this Kingdom*, as relates to any exemption from serving upon any jury or inquest ; and also an act passed in the twenty-fifth year of the same reign, intituled *An Act to take away the Challenge to the Array of Panels of Jurors for Want of a Knight on Trials which a Peer or Lord of Parliament is a Party* ; and also so much of an act passed in the thirty-fourth year of the same reign, intituled *An Act for reviving and continuing certain temporary Statutes*, as revives and makes perpetual the said act of the twenty-fifth year of the same reign ; and also so much of an act passed in the twenty-sixth year of the same reign, intituled *An Act for making, widening, and repairing public Roads in the County of Dublin, and for repealing Parts of several Acts formerly made for that Purpose*, as provides that any treasurer, inspector of the accounts, secretary of the grand jury, or collector of any barony, shall not be returned upon any panel for any jury in the county of Dublin ; and also so much of an act passed in the thirty-fifth year of the same reign, intituled *An Act for the better Regulation of the Receipts and Issues of his Majesty's Treasury, and for repealing an Act of Parliament passed in the Tenth Year of Henry the Seventh*, intituled '*An Act authorizing the Treasurer to make all Officers as the Treasurer of England doth*,' as relates to any exemption from serving upon any jury ; and that so much of an act passed in the parliament of the united kingdom of Great Britain and Ireland in the sixth year of the reign of his late Majesty, intituled *An Act for the Amendment of the Law with respect to Special Juries, and to Trials in Counties of Cities and Towns and Towns Corporate in Ireland*, as relates to special juries in any indictments or informations tried in any county at large in Ireland, shall also be repealed ; and the said several herein-before recited statutes and acts, and parts of statutes and acts, are hereby severally and respectively repealed accordingly, save only so far as the same or any of them repeals or repeal any other acts or parts of acts, and save only as far as any of them direct that the sheriff, sub-sheriff, or other returning officer, shall return upon panels, when so required by writ of venire facias or other precept, such persons as shall be most sufficient, substantial, and worthy of credit, and not suspect : Provided always, that nothing herein contained shall be construed to affect or alter any part of an act passed in the parliament of Ireland in the nineteenth year of the reign of king George the Second, intituled *An Act for accepting the solemn Affirmation or Declaration of the People called Quakers, instead of an oath in the usual Form* : Provided also, that nothing herein contained shall extend or be construed to extend to alter, abridge, or affect any power or authority which any court or judge now hath, or any practice or form in regard to trials by jury, jury process, juries or jurors, except in those cases only where any such power or authority, practice or form, is repealed or altered by this act, or is or shall be inconsistent with any of the provi-
- 12 G. 1, c. 4, s. 16.
- 29 G. 2, c. 6.
- 13 & 14 G. 3, c. 41, s. 1.
- 17 & 18 G. 3, c. 45, s. 3 to s. 10.
- 23 & 24 G. 3, c. 17, s. 35.
- 25 G. 3, c. 31.
- 34 G. 3, c. 23, s. 4.
- 26 G. 3, c. 14, s. 71.
- 35 G. 3, c. 28, s. 35.
- Repeal of act of united parliament, 6 G. 4, c. 51, s. 1.
- Not to affect act relating to Quakers ;
- nor any powers unrepealed ;

sions thereof, nor to abridge or affect any privilege of parliament: Provided also, that nothing herein contained shall extend to or in any manner affect any jurors or juries in any matter or cause to be heard or tried by civil bill before any assistant barrister in Ireland, but that all such matters and causes may be heard and tried as before the passing of this act.

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c. 91.

nor juries on
civil bills be-
fore assistant
barristers.

SCHEDULE (A.)

PRECEPT FOR RETURNING LISTS OF JURORS.

County of *[or]* To the High Constable and Collector of Grand
County of the City } Jury Cess *[or A. B. one of the Collectors of*
of *or* County } Grand Jury Cess] in the Barony *[or Half*
of the Town of .] Barony, *or* District, &c.] in the said County
[City *or* Town].

YOU are hereby required, within one month from the date hereof, to make out a true list in writing, in the form hereunto annexed, containing the names of all men, being natural-born subjects of the king, between the ages of twenty-one and sixty, residing within your district of collection, qualified to serve upon juries; (that is to say,) of every such man who has in his own name or in trust for him a clear income of ten pounds by the year in lands or tenements situate in the said county [city or town], or in rents issuing out of any such lands or tenements, or in such lands, tenements, and rents taken together, in fee simple or fee tail, or for his own life, or for the life of any other person; and also of every such man who has a clear income of fifteen pounds by the year in lands or tenements situate in the said county [city or town], held by lease, originally made for an absolute term of twenty-one years or more, whether the same be or be not determinable on any life or lives; and also of any resident merchant, freeman, and householder having a house and tenement in any city, town, or borough situate within the said county, of the clear yearly value of twenty pounds, such city, town, or borough not being a county of itself; *[and if in any city or town, add, (and also of every resident merchant, freeman, and householder having lands or tenements or personal estate of the value of one hundred pounds;)]* and you are required to make out the said list in alphabetical order, and to write the christian and surname of every man at full length, and the place of his abode, his title, quality, calling, or business, and the nature of his qualification, in the proper columns of the forms hereunto annexed, according to the specimens given in such columns for your guidance; and if you have not a sufficient number of forms, you must apply to me for more; and in making such lists you are to omit the names of all peers, all judges, all clergymen, all Roman Catholic priests, all ministers of any religious congregation; all serjeants and barristers at law, all assistant barristers, all advocates in ecclesiastical courts or in courts of the civil law, if actually practising; and all attorneys, solicitors, and proctors, if actually practising, and having taken out their annual certificates; all officers of the courts of law and equity, and of the admiralty and ecclesiastical courts, and courts of the civil law, and of all courts of criminal jurisdiction, if actually exercising the duties of their respective offices; all public notaries, all coroners, all gaolers and keepers of the houses of correction; all members and licentiates of the king and queen's college of physicians in Ireland, and all other physicians, all members of the royal colleges of surgeons in London, Edinburgh, and Dublin, and apothecaries certificated by the court of examiners of the governor and company of the apothecaries hall of the city of Dublin, if actually practising as physicians, surgeons, or apothecaries respectively; all the officers of the navy and army on full pay; all officers of customs and excise; all sheriffs officers, police con-

No. V.
3 & 4 W. 4,
c. 91.

stables, and parish clerks; all persons employed or acting in the service of his Majesty's post office; all treasurers, and secretaries of grand juries; and also all persons exempt by virtue of any prescription, charter, grant, or writ: And when you have made out such list you are authorized to order a sufficient number of copies thereof to be printed, (the expence of which printing will be allowed you by the county,) and you are required, within one month from the date hereof, to deliver a true copy of such list to the clerk of the peace of the county of every county of a city or county of a town within the said county, and to attend the justices at any special sessions to be held for the purpose of examining the lists, of the time and place of holding which you shall be previously informed, and there to answer on oath such questions as shall be put to you by his Majesty's justices of the peace there present touching the said lists: And these several matters you are in nowise to omit, upon the peril that may ensue.

Given under my hand, at
the day of in the said county,
in the year

Clerk of the peace for the said county [city,
or town].

SCHEDULE (B.)

FORM OF RETURN OF JURORS.

County of
[or
County of the City
of
or
County of the Town
of .]

The Return of the High Constable and of the Collector of the Grand Jury Cess of the District of in the County [City or Town] of

MEN QUALIFIED TO SERVE ON JURIES.

Christian and Surnames in alphabetical Order of Surnames.	Barony, District, and Place in which the Men live.	Title, Quality, Calling, or Business.	Qualification, whether Freehold or Leasehold, Merchant, Freeman, or Householder.

[No. VI.] 4 W. IV. c. 8.—An Act to amend an Act passed in the last Session, for consolidating and amending the Laws relative to Jurors and Juries in Ireland.

[26th March 1834.]

WHEREAS by an act passed in the last session of parliament, intituled *An Act for consolidating and amending the Laws relative to Jurors and Juries in Ireland*, it is amongst other things enacted, that the justices assembled at every October general or quarter sessions of the peace to be holden in each division of each county at large, and the justices for and in each county of a city and county of a town, in Ireland, shall, at a sessions to be holden at October in every year, fix a place within such division and within such counties of cities and counties of towns respectively, and also a time not less than two nor more than three calendar months after the first day of such general or quarter sessions, for holding a special sessions, for the purpose of examining the lists of jurors in the said act mentioned, pursuant to the provisions thereof therein-after contained: And whereas the periods so prescribed for the holding of such special sessions have been found inconvenient, by reason of their approaching so nearly to the end of the current year as not to leave convenient time for the making out of the jurors book for the next ensuing year, and it is therefore expedient to alter the same; be it therefore enacted, &c. That the justices assembled at any October general or quarter sessions of the peace to be holden in each division of each county at large and each county of a city and county of a town in Ireland shall fix a place within such cities and counties of towns respectively, and also a time, not less than one lunar month nor more than six weeks after the first day of such October general or quarter sessions, for holding a special sessions for the purpose of examining the list of jurors, as by the said act directed; and that the several provisions and clauses of the said recited act relating to the special sessions thereby directed to be fixed at the October sessions shall be extended and applied to and be in force with respect to the special sessions hereby required to be fixed.

Justices to fix a place and time for examining lists of jurors.

II. And whereas, in consequence of the difficulty which in certain instances has been found to exist since the passing of the said recited act in making up the list of jurors before the first day of January in the present year, the jurors book by the said act prescribed has not been made up in sufficient time to be delivered to the sheriff or other proper officer, so as to be brought into use on the said first day of January, as is by the said recited act provided, and jurors have therefore in those cases been necessarily returned and impanelled in the mode usually practised before the passing of the said recited act: And whereas it is expedient to prevent any doubts with respect to the validity of such proceedings; be it therefore declared and enacted, That where, in any county, county of a city, or county of a town in Ireland, the said jurors book shall not have been delivered to the sheriff or other proper officer before the said first day of January in this present year, the returning and impanelling of jurors in like manner as was used and accustomed before the passing of the said recited act shall be and be considered to have been lawful, and that all returns and panels of jurors in such cases heretofore made, or hereafter, until the completion and delivery of a proper jurors book, to be made, have been, are, and shall, and shall be deemed and taken to be and to have been, to all intents and purposes, equally good, valid, regular, effectual, and binding in law as if the said recited act had not passed.

Where jurors book is not completed, the return of jurors according to the form in use before the recited act to be deemed lawful.

[No. VII.] 4 & 5 W. IV. c. 47.—An Act for preventing the Interference of the Spring Assizes with the April Quarter Sessions.
[13th August 1834.]

1 W. 4, c. 70. **WHEREAS** by an act passed in the first year of the reign of his present Majesty, intituled *An Act for the more effectual Administration of Justice in England and Wales*, it is directed, that the justices of the peace in every county, riding, or division for which quarter sessions of the peace ought by law to be held shall hold their general quarter sessions of the peace (among other times) in the first week after the twenty-eighth day of December and in the first week after the thirty-first day of March: And whereas in some counties of England and Wales the time usually fixed for holding the spring assizes interferes with the due holding of the last-mentioned quarter sessions; and although the justices of the peace have authority to hold general sessions of the peace at other times of the year besides those specified in the said recited act, such sessions are not quarter sessions within the intent of various acts of parliament which give jurisdiction to justices of the peace in their quarter sessions or in their general quarter sessions; and for the purpose of preventing the inconvenience arising from such interference as aforesaid it is expedient to allow to the justices of the peace a discretion as to the time of holding their general quarter sessions, which they are now required to hold in the week next after the thirty-first day of March: Be it therefore declared and enacted by, &c., That in every county, riding, or division for which general quarter sessions ought to be held it shall be lawful for the justices assembled in their general quarter sessions in the week next after the twenty-eighth day of December in every year to name (if they shall see occasion so to do) two justices of the peace who shall be empowered, as soon as may be after the time for holding the spring assizes shall be appointed, to fix the day for holding the next general quarter sessions of the peace for such county, riding, or division, so as such time shall not be earlier than the seventh day of March nor later than the twenty-second day of April, and to give notice of the day so fixed by advertisement in such newspapers as shall be directed by the justices so assembled; and in every such case the general quarter sessions held on the day so fixed and notified shall be valid, and it shall not be necessary to hold any sessions of the peace for such county, riding, or division in the week next after the thirty-first day of March, any thing in the said recited act to the contrary notwithstanding: Provided always, That in every county, riding, and division where no other day shall be fixed in the manner herein-before mentioned, the justices of the peace shall hold their general quarter sessions of the peace in the week next after the thirty-first day of March as by the said recited act they are required.

Justices at Epiphany sessions may name two of their body to fix the day for holding the next general quarter sessions.

Proviso.

[No. VIII.] 5 & 6 W. IV. c. 26.—An Act for the Appointment of convenient Places for the holding of Assizes in Ireland.
[21st August 1835.]

6 Ric. 2, c. 5. **WHEREAS**, by a statute made in the sixth year of the reign of king Richard the second, it was ordained, that the justices assigned to take assizes and deliver the gaols should hold their sessions in the principal and chief towns of every of the counties where the shire courts of the same counties should be holden: And whereas by a statute made in the eleventh year of the same reign, reciting so much of the said statute of the sixth year as is herein-before recited, and stating that the said statute was in part prejudicial and grievous to the people of divers counties in England, it was provided that the chancellor of England for

11 Ric. 2, c. 11.

the time being should have power thereof to make and provide remedy, by advice of the justices, from time to time when need should be, notwithstanding the said statute: And whereas the places at which the assizes are now held in various counties of Ireland are inconvenient to the inhabitants thereof, and it would conduce to the more cheap, speedy, and effectual administration of justice to appoint other places instead thereof for the holding of assizes; but doubts may be entertained whether that object can be fully effected by virtue of the statutes hereinbefore referred to: Be it therefore enacted, &c., That so much of each of the said statutes as relates or may be construed to relate to holding assizes or sessions in Ireland shall be and the same is hereby repealed.

No. VIII.
5 & 6 W. 4,
c. 26.

Recited statutes in part repealed.

II. And be it declared and enacted, That the lord lieutenant or other chief governor or governors of Ireland, by and with the advice of the privy council of Ireland, shall have power from time to time to order and direct at what place or places in any county in Ireland the assizes and sessions under the commissions of gaol delivery, and other commissions for the dispatch of civil and criminal business, shall be holden, and to order and direct such assizes and sessions for the dispatch of criminal and civil business to be holden at more than one place in the same county, and to order and direct the assizes and sessions under such commissions for the dispatch of criminal or civil business to be holden at one or more place or places in such county; and further to order and direct any special commissions of oyer and terminer and gaol delivery to be holden at any one or more places in any such county.

III. Provided always, That it shall not be lawful for the lord lieutenant or other chief governor or governors of Ireland, and the privy council there, to make any order for changing the place for holding the assizes in any county, or for dividing any county, for the purposes of this act, unless a memorial shall have been presented to him or them by a majority of the grand jury of the assizes of such county, praying that such change or division may be made.

IV. That in case the lord lieutenant or other chief governor or governors of Ireland, by and with the advice of the privy council of Ireland, shall think fit to order and direct that the assizes or any such special commissions shall be holden at more than one place in any one county, it shall be lawful for the lord lieutenant or other chief governor or governors, by and with the advice aforesaid, to divide any such county for the purposes of this act, and to make rules and regulations touching the venue in all cases, civil and criminal, then pending or thereafter to be pending and to be tried within any division of such county so to be made as aforesaid; and touching the liability and attendance of jurors, whether grand jurors, special jurors, or common jurors, at the assizes and sessions as aforesaid, or at any sessions under any special commissions, to be holden within any such division; and touching the use of any house of correction or prison as a common gaol, and the government and keeping thereof; and touching the alterations of any commissions, writs, precepts, or other proceedings whatsoever for carrying into effect the purposes of this act; and touching any other matters that may be requisite for carrying into effect the purposes of this act; and all such rules and regulations shall be of the like force and effect as if the same had been made by the authority of parliament, and shall be notified in the *Dublin Gazette*, or in such other manner as the lord lieutenant or other chief governor or governors of Ireland by and with the advice of the privy council of Ireland shall think fit to direct.

Lord lieutenant, &c. in council may direct at what places assizes and sessions shall be held, and that they may be holden in more than one place in the county; as also special commissions.

Place for holding assizes not to be changed, or counties divided, unless desired by majority of grand jury.

Power to divide counties for the purpose of holding assizes in different divisions of the same county.

PART IV.

CLASS X.

EVIDENCE.

[No. 1.] 1 W. IV. c. 22.—An Act to enable Courts of Law to order the Examination of Witnesses upon Interrogatories and otherwise. [30th March 1831.]

13 G. 3, c. 63.

Powers of the recited act, as to the examination of witnesses in India, extended to the colonies, &c. and to all actions in the courts at Westminster, when examination by commission shall appear necessary.

Judges to whom the commission is directed empowered to enforce the attendance of witnesses.

WHEREAS great difficulties and delays are often experienced, and sometimes a failure of justice takes place, in actions depending in courts of law, by reason of the want of a competent power and authority in the said courts to order and enforce the examination of witnesses, when the same may be required, before the trial of a cause: And whereas by an act passed in the thirteenth year of the reign of his late Majesty king George the third, intituled *An Act for the establishing certain Regulations for the better Management of the Affairs of the East India Company, as well in India as in Europe*, certain powers are given and provisions made for the examination of witnesses in India in the cases therein mentioned; and it is expedient to extend such powers and provisions: Be it therefore enacted, &c. That all and every the powers, authorities, provisions, and matters contained in the said recited act, relating to the examination of witnesses in India (1), shall be and the same are hereby extended to all colonies, islands, plantations, and places under the dominion of his Majesty in foreign parts (2), and to the judges of the several courts therein, and to all actions (3) depending in any of his Majesty's courts of law at Westminster, in what place or county soever the cause of action may have arisen, and whether the same may have arisen within the jurisdiction of the court to the judges whereof the writ or commission may be directed, or elsewhere, when it shall appear that the examination of witnesses under a writ or commission issued in pursuance of the authority hereby given will be necessary or conducive to the due administration of justice in the matter wherein such writ shall be applied for (4).

II. When any writ or commission shall issue under the authority of the said recited act, or of the power herein-before given by this act, the judge or judges to whom the same shall be directed shall have the like power to compel and enforce the attendance and examination of witnesses as the court whereof they are judges does or may possess for that purpose in suits or causes depending in such court.

(1) Under this act the court has power to issue a mandamus for the examination of witnesses in India, wherever the cause of action arose; *Bain v. De Vettry*, 3 Dowl. 616.

(2) A mandamus can not be issued into Scotland for the examination of witnesses there under this section, but a commission may be issued under sect. 4; *Wainwright v. Bland*, 3 Dowl. 654.

(3) Where a witness resides abroad at so great a distance that a commission sent out to examine him would necessarily create great delay, it is not a matter of course to grant such commission on the defendant's application, but it must be made out to the satisfaction of the court that the witness's evidence would be admissible, and of service, when obtained; *Lloyd v. Key*, 3 Dowl. 253.

This statute does not apply to indictments; *Rex v. Briscoe*, 1 Dowl. 520.

(4) It is still discretionary with the court whether they will allow the expences of foreign witnesses brought over for the purpose of a cause, or only the costs of a commission; *M'Alpine v. Coles*, 2 Dowl. 299.

III. That the costs of every writ or commission to be issued under the authority of the said recited act, or of the power herein-before given by this act, in any action at law depending in either of the said courts at Westminster, and of the proceedings thereon, shall be in the discretion of the court issuing the same (1).

No. I.
1 W. 4, c. 22.
Costs of writs to be in the discretion of the court.

IV. That it shall be lawful to and for each of the said courts at Westminster, and also the court of common pleas of the county palatine of Lancaster, and the court of pleas of the county palatine of Durham, and the several judges thereof, in every action depending in such court, upon the application of any of the parties to such suit, to order the examination on oath, upon interrogatories or otherwise, before the master or prothonotary of the said court, or other person or persons to be named in such order (2), of any witnesses within the jurisdiction of the court where the action shall be depending (3), or to order a commission to issue for the examination of witnesses on oath at any place or places out of such jurisdiction (4), by interrogatories or otherwise, and by the same or any subsequent order or orders to give all such directions touching the time, place, and manner of such examination, as well within the jurisdiction of the court wherein the action shall be depending as without, and all other matters and circumstances connected with such examinations, as may appear reasonable and just.

Courts at Westminster, Lancaster, and Durham may order the examination of witnesses within their jurisdiction by an officer of the court; or may order a commission for that purpose out of their jurisdiction.

V. That when any rule or order shall be made for the examination of witnesses within the jurisdiction of the court wherein the action shall be depending, by authority of this act, it shall be lawful for the court, or any judge thereof, in and by the first rule or order to be made in the matter, or any subsequent rule or order, to command the attendance of any person to be named in such rule or order for the purpose of being examined, or the production of any writings or other documents to be mentioned in such rule or order, and to direct the attendance of any such person to be at his own place of abode, or elsewhere, if necessary or convenient so to do; and the wilful disobedience of any such rule or order shall be deemed a contempt of court, and proceedings may be thereupon had by attachment (the judge's order being made a rule of court before or at the time of the application for an attachment), if, in addition to the service

Compelling attendance of witnesses, or production of documents.

Disobedience to be deemed a contempt of court.

(1) Where the defendant obtains depositions from India under this act, the plaintiff is entitled to copies at his own expence; *Davis v. Nicholson*, 7 Bing. 358; 5 M. & P. 185; 1 Dowl. 220; and if the plaintiff gains the cause he is entitled to the costs of cross-examining these witnesses; *Whytt v. M'Intosh*, 8 B. & C. 317; 2 M. & R. 133.

(2) An action having been brought against the plaintiffs, whose witnesses were about to leave England for New York, they applied to the chief justice of the king's bench under this act for a commission to examine their witnesses before the trial. His lordship, however, ordered them to be examined *vidæ voce* before a gentleman of the bar, with liberty to the defendants to attend and cross-examine them. The plaintiffs took no proceedings under that order, but their witnesses having shortly after gone to New York, they filed a bill in the court of chancery, and afterwards moved for a commission to examine them at New York. The motion was granted, as that court retains its jurisdiction to grant commissions, and will exercise its own discretion on applications; *Gunnell v. Cobbold*, 4 Simons, 546.

(3) Where it is sworn that the witness is in a precarious state of health, and cannot attend the trial without danger, he may be examined before the officer of the court under this section; *Pond v. Dimes*, 2 Dowl. 730; and where illness is the ground of the application, it must appear that the illness is likely to exist at the time of the trial; 1 Dowl. 266; 1 M. & S. 384; 8 Bing. 143.

In certain cases the court will make the rule absolute in the first instance, unless cause be shown on the morrow; *Pirie v. Iron*, 1 Dowl. 252; 1 M. & S. 223; 8 Bing. 143.

(4) An application for the examination of a witness out of the jurisdiction of the court must be made as early as possible after issue joined; *Brydges v. Fisher*, 3 M. & S. 458.

A commission may be granted under this section to examine witnesses in France; 1 Tyr. 502, 505 n.

On an application to have a witness within the jurisdiction of the court examined under this section, the name of the person before whom the person is to be examined must be mentioned upon the motion; *Doe d. Thorne v. Phillips*, 1 Dowl. 56.

No. I.
1 W. 4, c. 22.

Payment of
expences.

Proviso as to
production of
documents.

Prisoners may
be removed by
habeas corpus
for examina-
tion.

Examinations
of witnesses to
be taken upon
oath.

Persons giving
false evidence
to be deemed
guilty of per-
jury.

Persons ap-
pointed for tak-
ing examina-
tions to report
to the court
upon the con-
duct or absence
of witnesses, if
necessary.

Costs of the
order for exa-
mination may
be made costs
in the cause.

Restriction as
to the reading
of examinations
or depositions
without consent
of the party.

of the rule or order, an appointment of the time and place of attendance in obedience thereto, signed by the person or persons appointed to take the examination, or by one or more of such persons, shall be also served together with or after the service of such rule or order: Provided always, that every person whose attendance shall be so required shall be entitled to the like conduct money and payment for expences and loss of time as upon attendance at a trial: Provided also, that no person shall be compelled to produce, under any such rule or order, any writing or other document that he would not be compellable to produce at a trial of the cause.

VI. That it shall be lawful for any sheriff, gaoler, or other officer having the custody of any prisoner, to take such prisoner for examination under the authority of this act, by virtue of a writ of habeas corpus to be issued for that purpose, which writ shall and may be issued by any court or judge under such circumstances and in such manner as such court or judge may now by law issue the writ commonly called a writ of habeas corpus ad testificandum.

VII. That it shall be lawful for all and every person authorized to take the examination of witnesses by any rule, order, writ, or commission made or issued in pursuance of this act, and he and they are hereby authorized and required to take all such examinations upon the oath of the witnesses, or affirmation in cases where affirmation is allowed by law instead of oath, to be administered by the person so authorized, or by any judge of the court wherein the action shall be depending; and if upon such oath or affirmation any person making the same shall wilfully and corruptly give any false evidence, every person so offending shall be deemed and taken to be guilty of perjury, and shall and may be indicted and prosecuted for such offence in the county wherein such evidence shall be given, or in the county of Middlesex if the evidence be given out of England.

VIII. That it shall and may be lawful for the master, prothonotary, or any other persons to be named in any such rule or order as aforesaid for taking any examination in pursuance thereof, and he and they are hereby required, to make, if need be, a special report to the court touching such examination, and the conduct or absence of any witness or other person thereon or relating thereto; and the court is hereby authorized to institute such proceedings and make such order and orders upon such report as justice may require, and as may be instituted and made in any case of contempt of the court.

IX. That the costs of every rule or order to be made for the examination of witnesses under any commission or otherwise by virtue of this act, and of the proceedings thereupon, shall (except in the case hereinbefore provided for) be costs in the cause, unless otherwise directed either by the judge making such rule or order, or by the judge before whom the cause may be tried, or by the court.

X. That no examination or deposition to be taken by virtue of this act shall be read in evidence at any trial without the consent of the party against whom the same may be offered, unless it shall appear to the satisfaction of the judge that the examinant or deponent is beyond the jurisdiction of the court, or dead, or unable from permanent sickness or other permanent infirmity to attend the trial; in all or any of which cases the examinations and depositions certified under the hand of the commissioners, master, prothonotary, or other person taking the same, shall and may, without proof of the signature to such certificate, be received and read in evidence, saving all just exceptions (1).

(1) A witness for the defendant was examined on a commission granted under sect. 4, on his cross-examination, a paper signed by him was produced to him, and a portion of the cross-examination and re-examination was founded on it. It was held that this paper was not to be read as part of the cross-examination, but that if the plaintiff's counsel wished it to be read before the cross-

XI. Provided always, That no order shall be made in pursuance of this act by a single judge of the court of pleas of the said county palatine of Durham, who shall not also be a judge of one of the said courts at Westminster.

No. I.

1 W. 4, c. 22.

Proviso as to
judges of Dur-
ham.

[No. II.] 3 & 4 W. IV. c. 42.—An Act for the further Amendment of the Law, and the better Advancement of Justice.

[14th August 1833.]

XV. And whereas it is expedient to lessen the expence of the proof of written or printed documents, or copies thereof, on the trial of causes; be it further enacted, That it shall and may be lawful for the said judges, or any such eight or more of them as aforesaid, at any time within five years after this act shall take effect, to make regulations by general rules or orders, from time to time, in term or in vacation, touching the voluntary admission, upon an application for that purpose at a reasonable time before the trial, of one party to the other of all such written or printed documents or copies of documents as are intended to be offered in evidence on the said trial by the party requiring such admission, and touching the inspection thereof before such admission is made, and touching the costs which may be incurred by the proof of such documents or copies on the trial of the cause in case of the omitting to apply for such admission, or the not producing of such document or copies for the purpose of obtaining admission thereof, or of the refusal to make such admission, as the case may be, and as to the said judges shall seem meet; and all such rules and orders shall be binding and obligatory in all courts of common law, and of the like force as if the provisions therein contained had been expressly enacted by parliament.

Power to the
judges to make
regulations as
to the admis-
sion of written
documents (1).

XXVI. And in order to render the rejection of witnesses on the ground of interest less frequent, be it further enacted, That if any wit-

Witnesses in-
terested solely

examination was read, it must be read as his evidence, so as to entitle the defendant's counsel to observe upon it; *Stephens v. Foster*, 6 Carr. & P. 289.

(1) In pursuance of this clause two rules relating to the admission of written documents in evidence were made in Hilary term 2 W. IV; but these were superseded by the following rule of Hilary term 4 W. IV.

“Either party, after plea pleaded and a reasonable time before trial, may give notice to the other, either in town or country, in the form hereto annexed marked A., or to the like effect, of his intention to adduce in evidence certain written or printed documents, and unless the adverse party shall consent by indorsement on such notice, within forty-eight hours to make the admission specified, the party requiring such admission may call on the party required by summons, to show cause before a judge why he should not consent to such admission; or in case of refusal, be subject to pay the costs of proof. And unless the party required shall expressly consent to make such admission, the judge shall, if he think the application reasonable, make an order that the costs of proving any document specified in the notice which shall be proved at the trial to the satisfaction of the judge or other presiding officer, certified by his indorsement thereon, shall be paid by the party so required, whatever may be the result of the cause.

Provided that, if the judge shall think the application unreasonable, he shall indorse the summons accordingly.

Provided also, that the judge may give such time for inquiry or examination of the documents intended to be offered in evidence, and give such directions for inspection and examination, and impose such terms upon the party requiring the admission as he shall think fit.

If the party shall consent to the admission, the judge shall order the same to be made.

No costs of proving any written or printed document shall be allowed to any party who shall have adduced the same in evidence in any trial, unless he shall have given such notice as aforesaid, and the adverse party shall have refused or neglected to make such admission, or the judge shall have indorsed upon the summons that he does not think it reasonable to require it.

A judge may make such order as he may think fit respecting the costs of the application and the costs of the production and inspection: and in the absence of a special order, the same shall be costs in the cause.”

No. II.
3 & 4 W. 4,
c. 42.

on account of
the verdict to
be admissible.

Direction to
indorse the
name of the
witness on the
record.

ness shall be objected to as incompetent on the ground that the verdict or judgment in the action on which it shall be proposed to examine him would be admissible in evidence for or against him such witness shall nevertheless be examined, but in that case a verdict or judgment in that action in favour of the party on whose behalf he shall have been examined shall not be admissible in evidence for him or any one claiming under him, nor shall a verdict or judgment against the party on whose behalf he shall have been examined be admissible in evidence against him or any one claiming under him (1).

XXVII. That the name of every witness objected to as incompetent on the ground that such verdict or judgment would be admissible in evidence for or against him shall at the trial be indorsed on the record or document on which the trial shall be had, together with the name of the party on whose behalf he was examined, by some officer of the court, at the request of either party, and shall be afterwards entered on the record of the judgment; and such indorsement or entry shall be sufficient evidence that such witness was examined in any subsequent proceeding in which the verdict or judgment shall be offered in evidence.

[For the clause of the above act giving arbitrators appointed under a rule of court power to compel the attendance of witnesses, see *ante*, Part IV., Class I.]

[No. III.] 3 & 4 W. 4. c. 49.—An Act to allow Quakers and Moravians to make Affirmation in all Cases where an Oath is or shall be required. [28th August 1833.]

Quakers and
Moravians per-
mitted to make
a solemn af-
firmation or
declaration in-
stead of an
oath.

WHEREAS it is expedient and reasonable that the solemn affirmation of persons of the persuasion of the people called Quakers, and of Moravians, should be allowed in all cases where an oath is or shall be required; be it therefore enacted, &c., That every person of the persuasion of the people called Quakers, and every Moravian, be permitted to make his or her solemn affirmation or declaration, instead of taking an oath, in all places and for all purposes whatsoever where an oath is or shall be required either by the common law or by any act of parliament already made or hereafter to be made, which said affirmation or declaration shall be of the same force and effect as if he or she had taken an oath in the usual form; and if any such person making such solemn affirmation or declaration shall be lawfully convicted wilfully, falsely, and corruptly to have affirmed or declared any matter or thing, which if the same had been in the usual form would have amounted to wilful and corrupt perjury, he or she shall incur the same penalties and forfeitures as by the

(1) The above section does not make the drawer of an accommodation bill a competent witness for the defendant in an action by the indorsee against the acceptor; *Burgess v. Cuttill*, 6 Car. & P. 282. So in an action against a carrier for negligence in carrying a parcel, the carrier's servant is not made a competent witness for the defendant by the above statute; *Harrington v. Caswell*, 6 Car. & P. 352; and see *Mitchell v. Hunt*, *ib.* 351; and a party who is directly interested in the event of an action or suit, by being liable for the costs, cannot be rendered a competent witness under this clause; *Jesus College v. Gibbs*, 1 Young & Collyer, 145. But in an action against executors for a debt of a testator, a person entitled to an annuity under the will is a competent witness for the defendants; *Nowell v. Davies*, 5 B. & Ad. 368; 2 Nev. & M. 745. So in an action on the warranty of a horse, the vendor of the horse to the defendant, who gave a similar warranty on that sale, is a competent witness for the defendant; *Baldwin v. Nixon*, (Lord Tenterden) 1 Moo. & R. 69; and an owner of lands in a parish is a good witness to prove the custody of old receipts for moduses, alleged to be payable for his lands, notwithstanding he has agreed to contribute to the costs of the suit; *Tomlinson v. Lymer*, 4 Simons, 473. The evidence of a witness in support of a modus for milk and calves is receivable, notwithstanding he occupies a cottage and garden in the parish; *Id.* 469.

laws and statutes of this realm are enacted against persons convicted of wilful and corrupt perjury, any law, statute, or custom to the contrary notwithstanding; Provided always, That every such affirmation or declaration shall be in the words following; (that is to say,) No. III.
3 & 4 W. 4,
c. 28.

Penalty on affirming or declaring falsely.

‘ I A. B. being one of the people called Quakers [or one of the persuasion of the people called Quakers, or of the united brethren called Moravians, as the case may be,] do solemnly, sincerely, and truly declare and affirm.’ Form of declaration.

II. And whereas some doubts may arise as to the form of the affirmation to be taken in lieu of the oath of abjuration by persons of the persuasion of the people called Quakers; be it therefore enacted, That instead of the form of affirmation prescribed in lieu of the abjuration oath by an act of the eighth year of the reign of his late Majesty king George the first, intituled *An Act for granting the People called Quakers such Forms of Affirmation or Declaration as may remove the Difficulties which many of them lie under*, and instead of the form of the oath of abjuration prescribed by an act of the sixth year of the reign of his late Majesty, king George the third, intituled *An Act for altering the Oath of Abjuration and the Assurance, and for amending so much of an Act of the Seventh Year of Her late Majesty Queen Anne, intituled ‘An Act for the Improvement of the Union of the Two Kingdoms,’ as after the Time therein limited requires the Delivery of certain Lists and Copies therein mentioned to Persons indicted of High Treason or Misprision of Treason*, every person of the persuasion of the people called Quakers shall be permitted to make his or her solemn affirmation in the following words; (*videlicet*,)

‘ I A. B. [being one of the people called Quakers [or one of the persuasion of the people called Quakers, or of the united brethren called Moravians, as the case may be], do solemnly, sincerely, and truly acknowledge, profess, testify, and declare, That king William is lawful and rightful king of this realm, and of all other his dominions and countries thereunto belonging: And I do solemnly and sincerely declare, That I do believe that not any of the descendants of the person who pretended to be prince of Wales during the life of the late king James the second, and since his decease pretended to be and took upon himself the style and title of king of England by the name of James the third, or of Scotland by the name of James the eighth, or the style and title of king of Great Britain, hath any right or title whatsoever to the crown of this realm, or any other the dominions thereunto belonging; and I do renounce and refuse any allegiance or obedience to any of them: And I do solemnly promise, That I will be true and faithful and bear true allegiance to king William, and to him will be faithful against all traitorous conspiracies and attempts whatsoever which shall be made against his person, crown, or dignity; and I will do my best endeavour to disclose and make known to king William and his successors all treasons and traitorous conspiracies which I shall know to be made against him or any of them; and I will be true and faithful to the succession of the crown, against the descendants of the said James, and against all other persons whatsoever, which succession by an act, intituled *An Act for the further Limitation of the Crown, and better securing the Rights and Liberties of the Subject*, is and stands limited to the princess Sophia electoress and duchess dowager of Hanover, and the heirs of her body, being Protestants: and all these things I do plainly and sincerely acknowledge, promise, and declare, according to these express words by me spoken, and according to the plain and common sense and understanding of the same words, without any equivocation, mental evasion, or secret reservation whatsoever: And I do make this recognition, acknowledgment, renunciation, and promise heartily, willingly, and truly.’

[No. IV.] 3 & 4 W. IV. c. 82.—An Act to allow the People called Separatists to make a solemn Affirmation and Declaration instead of an Oath. [28th August 1833.]

Separatists, instead of an oath, may make the following affirmation.

WHEREAS there are in various places in Ireland, and in some parts of England, and elsewhere, certain dissenters from the united church of England and Ireland, and from the church of Scotland, commonly called Separatists, the members of which class or sect of dissenters, from conscientious scruples, refuse to take an oath in courts of justice and other places, and in consequence thereof are exposed to great losses and inconveniences in their trades and concerns, and are subject to fines and to imprisonment for contempt of court, and the community at large are deprived of the benefit of their testimony: And whereas it is therefore expedient that the said sect called Separatists should be relieved in manner herein-after mentioned; be it enacted, &c., That every person for the time being belonging to the said sect called Separatists, who shall be required upon any lawful occasion to take an oath in any case where by law an oath is or may be required, shall, instead of the usual form, be permitted to make his or her solemn affirmation or declaration in these words following; *videlicet*,

‘ I A. B. do, in the presence of Almighty God, solemnly, sincerely, and truly affirm and declare that I am a member of the religious sect called Separatists, and that the taking of any oath is contrary to my religious belief, as well as essentially opposed to the tenets of that sect; and I do also in the same solemn manner affirm and declare.’

Such affirmation shall have the effect of an oath.

Which said solemn affirmation or declaration shall be adjudged and taken, and is hereby enacted and declared to be of the same force and effect to all intents and purposes, in all courts of justice and other places whatsoever where by law an oath is or may be required, as if such Separatists had taken an oath in the usual form.

Persons making a false affirmation to be subject to the same punishment as for perjury.

II. That if any person making such solemn affirmation or declaration shall in fact not be one of the people commonly called Separatists, or shall wilfully, falsely, and corruptly affirm or declare any other matter or thing which if the same had been sworn in the usual form would have amounted to wilful and corrupt perjury, every such person so offending shall incur the same penalties and forfeitures as by the laws and statutes of this kingdom are or may be enacted or provided against persons convicted of wilful and corrupt perjury.

[For the provisions of the act relating to the privy council, 3 and 4 W. 4, c. 41, with respect to evidence and witnesses. See Part IV, Class XXIV.]

PART IV.

CLASS XI.

COSTS.

[No. I.] 3 & 4 W. IV. c. 42.—An Act for the further amendment of the Law, and the better advancement of Justice.
[14th August 1833.]

XXXI. That in every action brought by any executor or administrator Executors in right of the testator or intestate, such executor or administrator shall, suing in right unless the court in which such action is brought, or a judge of any of the said superior courts, shall otherwise order, be liable to pay costs to the defendant in case of being nonsuited or a verdict passing against the plaintiff, and in all other cases in which he would be liable if such plaintiff were suing in his own right upon a cause of action accruing to himself; and the defendant shall have judgment for such costs, and they shall be recovered in like manner (1). of the testator to pay costs.

XXXII. That where several persons shall be made defendants in any personal action, and any one or more of them shall have a nolle prosequi entered as to him or them, or upon the trial of such action shall have a verdict pass for him or them, every such person shall have judgment for and recover his reasonable costs, unless in the case of a trial, the judge before whom such cause shall be tried shall certify upon the record, under his hand, that there was a reasonable cause for making such person a defendant in such action. One or more of several defendants in any action having a nolle prosequi or a verdict shall have costs.

XXXIII. That where any nolle prosequi shall have been entered upon any count, or as to part of any declaration, the defendant shall be entitled to, and have judgment for, and recover his reasonable costs in that behalf. Where nolle prosequi entered upon any count, &c.

XXXIV. That in all writs of scire facias the plaintiff obtaining judgment on an award of execution shall recover his costs of suit upon a judgment by default as well as upon a judgment after plea pleaded or demurrer joined; and that where judgment shall be given either for or against a plaintiff or demandant, or for or against a defendant or tenant, upon any demurrer joined in any action whatever, the party in whose favour such judgment shall be given shall also have judgment to recover his costs in that behalf. Plaintiff in scire facias, and plaintiff or defendant on demurrer, to have costs.

(1) Under this section it has been held that executors were liable to costs in actions commenced before the statute came into operation and tried afterwards; *Freeman v. Moyes*, 1 *Ad. & Ell.* 338; and see 2 *Cr. & M.* 406.

Where an executrix had commenced an action without first securing the requisite proof, laid the venue in Middlesex, though all the parties lived in Monmouthshire, and twice violated a peremptory undertaking to try, whereupon judgment, as in case of a nonsuit was signed, the court refused to exonerate her from costs; *Wilkinson v. Edwards*, 1 *Bing. N. C.* 301; 3 *Dowl. P. C.* 137.

Where an executor sues on a promise to himself, and there is a verdict against him, the defendant is not deprived of his costs by the above clause; *Ashton v. Poynter*, 1 *Cr. M. & R.* 738; 3 *Dowl. P. C.* 465.

The rule which the courts now seem to have laid down is this, that there must be some misconduct on the part of the defendant to make them interfere to relieve the executor from costs. See *Godson v. Freeman*, 1 *Tyr. & Granger*, 35.

No. I.

3 & 4 W. 4,
c. 42.Costs of special
juries in case of
a nonsuit.

6 G. 4, c. 50.

XXXV. And whereas it is provided in and by a statute passed in the sixth year of the reign of his late Majesty, intituled *An Act for consolidating and amending the Law relative to Jurors and Juries*, that the person or party who shall apply for a special jury shall pay the fees for striking such jury, and all the expences occasioned by the trial of the cause by the same, and shall not have any further or other allowance for the same, upon taxation of costs, than such person or party would be entitled unto in case the cause had been tried by a common jury, unless the judge before whom the cause is tried shall, immediately after the verdict, certify under his hand, upon the back of the record, that the same was a cause proper to be tried by a special jury: And whereas the said provision does not apply to cases in which the plaintiff has been nonsuited, and it is expedient that the judge should have such power of certifying as well when a plaintiff is nonsuited as when he has a verdict against him; be it therefore enacted, That the said provision of the said last-mentioned act of parliament, and every thing therein contained, shall apply to cases in which the plaintiff shall be nonsuited as well as to cases in which a verdict shall pass against him.

Power to make
regulations as
to the officers
of each court at
Westminster
taxing costs.

XXXVI. And whereas it would tend to the better dispatch of business, and would be more convenient and better assimilate the practice and promote uniformity in the allowance of costs, if the officers on the plea side of the courts of king's bench and exchequer, and the officers of the court of common pleas at Westminster, who now perform the duties of taxing costs, were to be empowered to tax costs which have arisen or may arise in each of the said courts indiscriminately; be it therefore enacted, That it shall be lawful for the judges of the said courts, or such eight or more of them as aforesaid, by any rule or order to be from time to time made, in term or vacation, to make such regulations for the taxation of costs by any of the said officers of the said courts indiscriminately as to them may seem expedient, although such costs may not have arisen in respect of business done in the court to which such officer belongs, and to appoint some convenient place in which the business of taxation shall be transacted for all the said courts, and to alter the same when and as it may seem to them expedient.

[No. II.] 4 & 5 W. IV. c. 39.—An Act to give Costs in
Actions of Quare Impedit. [30th July 1834.]

WHEREAS the delay and expence of recovering advowsons, and the rights of patronage and presentation to ecclesiastical benefices, by actions of quare impedit, are much increased by reason of the defendants in such actions not being liable for the payment of costs, and the true patrons are thereby frequently deterred from the prosecution of their just rights; and it is also expedient to afford further protection to incumbents of advowsons from vexatious and unfounded proceedings to disturb them in the enjoyment thereof: Be it therefore enacted, &c., That in all writs and actions of quare impedit issued or brought from and after the passing of this act in England, Wales, or Ireland, where a verdict shall pass or be given for the plaintiff or plaintiffs in any such writ or action, the plaintiff or plaintiffs in every such writ or action, in addition to the damages to which he or they is or are by law now entitled, shall also have judgment to recover his or their full costs and charges against the defendant or defendants therein, to be assessed, taxed, and levied in such manner and form as costs in personal actions are now by law assessed, taxed, and levied; and where in any such writ or action the plaintiff or plaintiffs therein shall discontinue, or be nonsuited, or a verdict shall be had against him or them, that then the defendant or defendants in every such writ or action shall have judgment to recover his or their full costs and charges against the plaintiff

Costs may be
recovered in
actions of quare
impedit.If plaintiff is
nonsuited, &c.
defendant to
have judgment.

or plaintiffs therein, to be assessed, taxed, and levied in manner aforesaid: Provided always, That no judgment for costs shall be had against any archbishop, bishop, or other ecclesiastical patron or incumbent, if the judge who shall try the cause, or if there shall be no trial by a jury, the court in which judgment shall be given, shall certify that such archbishop, bishop, or other ecclesiastical patron or incumbent had probable cause for defending such action; but in no case when the defence to any such action shall be grounded upon a presentation or presentations, collation or collations, previously made to any benefice, shall such presentation or presentations, collation or collations, be deemed or considered probable cause for defending such action.

No. II.

3 & 4 W. 4,

c. 27.

Exception.

PART IV.

CLASS XII.

JUDGMENT AND EXECUTION.

[No. I.] 1 W. IV. c. 7.—An Act for the more speedy Judgment and Execution in Actions brought in His Majesty's Courts of Law at Westminster, and in the Court of Common Pleas of the County Palatine of Lancaster; and for amending the Law as to Judgment on a Cognovit actionem in Cases of Bankruptcy. [11th March 1831.]

WHEREAS the judgment and execution in actions brought in his Majesty's courts of law at Westminster are often delayed by reason of the interval between the terms: Now, for the prevention of such delay, be it enacted, &c., That any writ of inquiry of damages to be issued in or by either of the said courts, by whatever form of process the action may have been commenced, may be made returnable and be returned on any day certain, in term or vacation, (1) to be named in such writ, and such writ shall be as valid and effectual as if the same had been returnable according to the course of the common law; and thereupon at the return thereof a rule for judgment may be given, costs taxed, final judgment signed, and execution issued forthwith, (2) unless the sheriff or other officer before whom the same may be executed shall certify under his hand upon such writ that judgment ought not to be signed until the defendant shall have had an opportunity to apply to the court to set aside the execution of such writ, or one of the judges of the said courts shall think fit to order the judgment to be stayed until a day to be named in such order: Provided always, That in case the signing of judgment on such writ shall be postponed by reason of such certificate or order, or by the choice of the plaintiff, or otherwise, and judgment shall be afterwards signed thereon, such judgment shall be entered of record as of the day of the return of such writ, unless the court shall otherwise direct.

Writs may be made returnable on any day to be named therein.

Proceedings to be had at the return thereof.

The judge before whom any action shall be tried may certify before the end of the sittings or assizes that execution ought to issue forthwith;

II. That in all actions brought in either of the said courts, by whatever form of process the same may be commenced, it shall be lawful for the judge before whom any issue joined in such action shall be to be tried, in case the plaintiff or demandant therein shall become nonsuit, or a verdict shall be given for the plaintiff or demandant, defendant or tenant, to certify under his hand, on the back of the record, at any time before the end of the sittings or assizes, that in his opinion execution ought to issue in such action forthwith, or at some day to be named in such certificate, and subject, or not, to any condition or qualification,

(1) Before this act writs of inquiry could only have been made returnable in term time, and consequently, when they were issued in vacation final judgment and execution could not be obtained without considerable delay.

(2) Where a writ of inquiry is executed, and the defendant taken in execution in vacation pursuant to this section, the inquisition and subsequent proceedings should be filed, or the defendant should be suffered to inspect them: and the court of exchequer compelled the plaintiff's attorney to file the inquisition and subsequent proceedings; *Townsend v. Baines*, 3 Tyr. 104; 1 Cr. & M. 177.

and in case of a verdict for the plaintiff, then either for the whole or for any part of the sum found by such verdict; in all which cases a rule for judgment may be given, costs taxed, and judgment signed forthwith, and execution may be issued forthwith, or afterwards, according to the terms of such certificate, on any day in vacation or term; and the postea, with such certificate as a part thereof, shall and may be entered of record as of the day on which the judgment shall be signed, although the writ of *distringas juratores* or *habeas corpora juratorum* may not be returnable until after such day: Provided always, That it shall be lawful for the party entitled to such judgment to postpone the signing thereof. (1)

III. That every judgment to be signed by virtue of this act may be entered and recorded as the judgment of the court wherein the action shall be depending, although the court may not be sitting on the day of the signing thereof; and every execution issued by virtue of this act shall and may bear teste on the day of issuing thereof; (2) and such judgment and execution shall be as valid and effectual as if the same had been signed and recorded and issued according to the course of the common law.

IV. Provided always, That notwithstanding any judgment signed or recorded, or execution issued, by virtue of this act, it shall be lawful be vacated, for the court in which the action shall have been brought to order such judgment to be vacated, and execution to be stayed or set aside, and to enter an arrest of judgment, or grant a new trial or new writ of inquiry, as justice may appear to require; and thereupon the party affected by such writ of execution shall be restored to all that he may

(1) Certificates will be granted in actions of assumpsit on promissory notes, &c. and in other actions to which there is no reasonable ground of defence, and in which the judge shall be of opinion that execution ought to be issued forthwith, or at a future day; *Bell v. Smith*, 5 C. & P. 10; *Tidd*, 176. Though in an action of assumpsit, the verdict be taken by consent, and the consent does not comprehend any such terms, the judge will, nevertheless, certify for immediate execution; *Anon.* 1 Moo. & R. 167.

There formerly was a doubt among the judges whether the statute was not intended to be confined to cases of contracts; *Bardon v. Cox*, 1 Moo. & R. 203. But it seems to be now settled that the plaintiff is entitled to early execution in actions of debt, as well as in other actions; *Young v. Crooks*, *ib.* 220; and that it is not limited to cases of contract, but applies to all actions in which the judge shall think there ought to be such execution. Accordingly it has been granted in an action for mesne profits and costs in ejectment; *Bardon v. Cox*, *supra*. So also in an action for criminal conversation, in which the plaintiff, in order to prevent a verdict from passing against him in consequence of the prevarication of one of his witnesses, consented to be nonsuited, the judge directed execution to issue at the expiration of a month; *Hambridge v. Crawley*, 5 C. & P. 9.

Certificates are not grantable where there is a reasonable ground of defence; *Tidd*, 177; *Barford v. Nelson*, 5 C. & P. 8; *Wright v. Guiver*, *ib.* 9; *Crookshank v. Ross*, *ib.* 19, 20. And in an action against an executor on the bond of his testator, where a verdict is given for the plaintiff on the plea of *non est factum*, if the judge make an order for immediate execution, it will not entitle the plaintiff to issue execution in the first instance against the goods of the defendant; *Ward v. Thomas*, 2 Dowd. 87.

Affidavits, it seems, are not in general admissible in support of an application for immediate execution; *Gervais v. Buckley*, 1 Moo. & R. 150; but there may be cases in which justice may require them; and in a late case, *Ruddick v. Simmons*, 1 Moo. & R. 184, a certificate was granted on an affidavit of facts, after verdict for the plaintiff in an undefended cause; *Tidd*, 177.

The object of this statute is to accelerate execution for all debts where there is really no doubt on the claim for the sum recovered; *per Parke, B.*, *Percival v. Alcock*, 1 Moo. & R. 167. Therefore it will be granted after a verdict by consent; *id.* See *Wordsworth's Rules and Statutes*, xliii. Second edit.

(2) See the 3 & 4 W. 4, c. 67, s. 2, by which all writs of execution may be tested on the day on which the same are issued, and made returnable immediately after execution thereof; *ante*, Part IV., Class III.

If a writ of execution be tested of a term previous to the judgment, or if when issued under this clause it be not tested on the day on which it issues, it becomes irregular; but the court will permit the teste to be amended (on payment of costs) even as against the bail; *Englehart v. Dunbar*, 2 Dowd. 302.

No. I.
1 W. 4, c. 7.

Not to affect
provision in
1 W. 4, c. 70,
relating to
writs of posses-
sion.

Limitation as
to taxing costs.

No judgment
signed or exe-
cution issued on
a cognovit
signed after de-
claration filed
shall be deemed
within the pro-
vision of 6 G. 4,
c. 16.

In lieu of the
return days in
Easter and Mi-
chaelmas terms
all writs of in-
quiry of da-
mages, &c. to
be returnable
on the first
Wednesday in
every month, in
addition to the
first and last
days of each
assizes.

have lost thereby in such manner as upon the reversal of a judgment by writ of error, or otherwise as the court may think fit to direct. (1)

V. Provided always, That nothing in this act contained shall be deemed to frustrate or make void any provision relating to the issuing of any writ of habere facias possessionem, contained in the act passed in the first year of the reign of his present Majesty, intituled *An Act for the more effectual Administration of Justice in England and Wales*. (2)

VI. Provided always, That no officer of either of the said courts shall, for the purpose of taxing costs on any judgment to be signed by virtue of this act, be compelled to attend at any time between the last day of August and the twenty-first day of October in any year.

VII. And whereas by an act passed in the sixth year of the reign of his late Majesty king George the fourth, intituled *An Act to amend the Laws relating to Bankrupts*, it is provided, that no creditor, though for a valuable consideration, who shall sue out execution upon any judgment obtained by default, confession, or nil dicit, shall avail himself of such execution to the prejudice of other fair creditors, but shall be paid rateable with such creditors: And whereas, by reason of such provision, plaintiffs have been and may be deterred from accepting a cognovit actionem, with stay of execution, whereby the expence of further proceedings in such action might have been and may be saved or diminished; for remedy thereof be it enacted, That no judgment signed or execution issued after the passing of this act on a cognovit actionem signed after declaration filed or delivered, or judgment by default, confession, or nihil dicit, according to the practice of the court, in any action commenced adversely, and not by collusion for the purpose of fraudulent preference, shall be deemed or taken to be within the said provision of the said recited act. (3)

VIII. And whereas by an act passed in the twenty-second year of the reign of his late Majesty king George the second, made and passed, among other purposes, for the more frequent return of writs in the counties palatine of Chester and Lancaster, (4) writs of capias ad respondendum may be made returnable in the court of common pleas of the said county palatine of Lancaster on the first Wednesday in every month: And whereas by another act passed at a sessions of parliament holden in the thirty-ninth and fortieth years of the reign of his late Majesty king George the third, intituled *An Act for the better regulating the Practice and for preventing Delays in the Proceedings of the Court of Common Pleas at Lancaster*, writs of inquiry of damages, and certain other writs in the said act in that behalf mentioned, issued by and out of the same court, may be made returnable on any of the return days in Easter and Michaelmas terms respectively, according to the course of his Majesty's court of common pleas at Westminster, in addition to the first and last days of each assizes held for the said county; and it is expedient to quicken the proceedings in the said court of the said county; be it therefore enacted, That in lieu of the return days in Easter and Michaelmas terms, all writs of inquiry of damages, and other writs in the said last mentioned act in that behalf mentioned, shall and may be made returnable in the said court of the said county on the first Wednesday in every month, in addition to the first and last days

(1) Where execution within a limited time has been granted at the assizes, and judgment thereupon entered up and execution issued, the defendant is not precluded from applying, in the next term, to the court above in order to enter a suggestion to deprive the plaintiff of his costs under a court of request act. A judge at the assizes has no power to order such suggestion to be entered; *Baddesley v. Oliver*, 1 Cr. & M. 219; 1 Dowl. 506.

(2) See the statute, ante, Part IV, Class I.

(3) This clause does not extend to judgments on warrants of attorney, though given without collusion or intention of fraudulent preference; *Crossfield v. Hanley*, 4 B. & Ad. 87.

(4) See the act altering the practice of the Common Pleas at Lancaster, post, Part IV., Class XVI.

of each assizes held for the said county; and such proceedings shall and may be had on the return thereof as upon such writs returnable according to the law in force at and before the passing of this act. No. I.
1, W. 4, c. 7.

IX. And whereas persons suing in the inferior courts of the said county palatine of Lancaster are often vexatiously delayed in the recovery of their just demands by the removal of their suits into the said court of common pleas, by reason that the writs whereby the same are removed can be made returnable only at the assizes holden for the said county; for remedy thereof be it enacted, That all writs of pone loquelam, recordari facias loquelam, accedas ad curiam, and all other writs now lawfully issued out of the chancery of the said county palatine of Lancaster for the removal of causes from the inferior courts of the said county into the said court of common pleas, which shall be issued after the expiration of fourteen clear days next after the passing of this act, shall be made returnable on the first Wednesday in the month next after the issuing thereof, unless in the meantime the assizes shall be holden for the said county, and if the assizes shall be so holden in the meantime, then on the first or last day of such assizes, as the case may be, next after the issuing thereof; and that all such writs made returnable at any other time than according to the provision herein-before contained shall be utterly null and void to all intents and purposes.

[For the provisions of the 3 & 4 W. 4, c. 42, with respect to signing judgment in writs of inquiry and writs of trial before the sheriff. See *ante*, Part IV. Class IX.]

When writs for removing suits from inferior courts shall be returnable.

PART IV.

CLASS XIII.

ERROR AND FALSE JUDGMENT.

[No. I.] 1 W. IV. c. 70.—An Act for the more effectual administration of Justice in England and Wales.

[23rd July, 1830.]

Regulation as
to writs of
error.

VIII. That writs of error upon any judgment⁽¹⁾ given by any of the said courts shall hereafter be made returnable only before the judges, or judges and barons, as the case may be, of the other two courts in the exchequer chamber, any law or statute to the contrary notwithstanding; that a transcript of the record only shall be annexed to the return of the writ; and the court of error, after errors are duly assigned and issue in error joined, shall, at such time as the judges shall appoint, either in term or vacation, review the proceedings, and give judgment as they shall be advised thereon; and such proceedings and judgment, as altered or affirmed, shall be entered on the original record, and such further proceeding as may be necessary thereon shall be awarded by the court in which the original record remains, from which judgment in error no writ of error shall lie or be had, except the same be made returnable in the high court of parliament. ⁽²⁾

[No. II.] 3 & 4 W. 4. c. 42.—An Act for the further amendment of the Law, and the better Advancement of Justice.

[14th August, 1833.]

Interest to be
allowed on all
writs of error
for the time
that execution
has been de-
layed.

XXX. That if any person shall sue out any writ of error upon any judgment whatsoever given in any court in any action personal, and the court of error shall give judgment for the defendant thereon, then interest shall be allowed by the court of error for such time as execution has been delayed by such writ of error, for the delaying thereof.

[A variety of regulations with respect to writs of error have been made by the recent rules of court.]

(1) This provision extends to a judgment given against a defendant in the K. B. on an indictment; *Rex v. Wright*, 1 Ad. & E. 434.

(2) For error in fact a writ of error will not lie from the Common Pleas to the Exchequer chambers but only to the King's Bench; *Castledine v. Mundy*, 4 B. & Ad. 90.

PART IV.

CLASS XIV.

MISCELLANEOUS STATUTES RESPECTING CIVIL ACTIONS
AND PROCEEDINGS.

[No. I.] 1 W. 4, c. 68.—An Act for the more effectual Protection of Mail Contractors, Stage Coach Proprietors, and other common Carriers for Hire, against the Loss of or Injury to Parcels or Packages delivered to them for Conveyance or Custody, the Value and Contents of which shall not be declared to them by the Owners thereof.

[23d July 1830.]

WHEREAS by reason of the frequent practice of bankers and others of sending by the public mails, stage coaches, waggons, vans, and other public conveyances by land for hire, parcels and packages containing money, bills, notes, jewellery, and other articles of great value in small compass, much valuable property is rendered liable to depredation, and the responsibility of mail contractors, stage coach proprietors, and common carriers for hire is greatly increased: And whereas through the frequent omission by persons sending such parcels and packages to notify the value and nature of the contents thereof, so as to enable such mail contractors, stage coach proprietors, and other common carriers, by due diligence, to protect themselves against losses arising from their legal responsibility, and the difficulty of fixing parties with knowledge of notices published by such mail contractors, stage coach proprietors, and other common carriers, with the intent to limit such responsibility they have become exposed to great and unavoidable risks, and have thereby sustained heavy losses: Be it therefore enacted, &c., That from and after the passing of this act no mail contractor, stage coach proprietor, or other common carrier by land for hire shall be liable for the loss of or injury to any article or articles or property of the descriptions following; (that is to say,) gold or silver coin of this realm, or of any foreign state, or any gold or silver in a manufactured or unmanufactured state, or any precious stones, jewellery, watches, clocks, or time-pieces of any description, trinkets, bills, notes of the governor and company of the banks of England, Scotland, and Ireland respectively, or of any other bank in Great Britain or Ireland, orders, notes, or securities for payment of money, English or Foreign stamps, maps, writings, title deeds, paintings, engravings, pictures, gold or silver plate or plated articles, glass, china, silks in a manufactured or unmanufactured state, and whether wrought up or not wrought up with other materials, furs, (1) or lace, or any of them, contained in any parcel or package which shall have been delivered, either to be carried for hire or to accompany the person of any passenger in any mail or stage coach or other public conveyance, when the value of such article or articles or property aforesaid contained in such parcel or package shall exceed the sum of ten pounds, unless at the time of the delivery thereof at the office, warehouse, or receiving house of such mail con-

Mail contractors, coach proprietors, and carriers not to be liable for loss of certain goods above the value of 10*l.*, unless delivered as such, and increased charge accepted.

(1) Hat bodies, made partly of sheep and partly of rabbits' wool, do not come under the description of furs in this act; 6 *Mayhew v. Nelson, Car. & P.* 58.

No. I.
1 W. 4, c. 68.

When any parcel shall be so delivered, an increased rate of charge may be demanded.

Notice of the same to be affixed in offices or warehouses.

Carriers to give receipts, acknowledging increased rate.

In case of neglect to give receipt or affix notice, the party not to be entitled to benefit of this act.

Publication of notices not to limit the liability of proprietors, &c., in respect of any other goods conveyed.

tractor, stage coach proprietor, or other common carrier, or to his, her, or their book-keeper, coachman, or other servant, for the purpose of being carried or of accompanying the person of any passenger as aforesaid, the value and nature of such article or articles or property shall have been declared by the person or persons sending or delivering the same, and such increased charge as herein-after mentioned, or an engagement to pay the same, be accepted by the person receiving such parcel or package (1).

II. That when any parcel or package containing any of the articles above specified shall be so delivered, and its value and contents declared as aforesaid, and such value shall exceed the sum of ten pounds, it shall be lawful for such mail contractors, stage coach proprietors, and other common carriers to demand and receive an increased rate of charge, to be notified by some notice affixed in legible character in some public and conspicuous part of the office, warehouse, or other receiving house where such parcels or packages are received by them for the purpose of conveyance, stating the increased rates of charge required to be paid over and above the ordinary rate of carriage as a compensation for the greater risk and care to be taken for the safe conveyance of such valuable articles; and all persons sending or delivering parcels or packages containing such valuable articles as aforesaid at such office shall be bound by such notice, without further proof of the same having come to their knowledge.

III. Provided always, That when the value shall have been so declared and the increased rate of charge paid, or an engagement to pay the same shall have been accepted as herein-before mentioned, the person receiving such increased rate of charge or accepting such agreement shall, if thereto required, sign a receipt for the package or parcel, acknowledging the same to have been insured, which receipt shall not be liable to any stamp duty; and if such receipt shall not be given when required, or such notice as aforesaid shall not have been affixed, the mail contractor, stage coach proprietor, or other common carrier as aforesaid shall not have or be entitled to any benefit or advantage under this act, but shall be liable and responsible as at the common law, and be liable to refund the increased rate of charge.

IV. Provided always, That from and after the first day of September now next ensuing no public notice or declaration heretofore made or hereafter to be made shall be deemed or construed to limit or in anywise affect the liability at common law of any such mail contractors, stage coach proprietors, or other public common carriers as aforesaid, for or in respect of any articles or goods to be carried and conveyed by them; but that all and every such mail contractors, stage coach proprietors, and other common carriers as aforesaid shall from and after the said first day of September be liable, as at the common law, to answer for the loss of any injury to any articles and goods in respect whereof they may not be entitled to the benefit of this act, any public notice or declaration by them made and given contrary thereto, or in anywise limiting such liability, notwithstanding.

(1) A looking-glass exceeding the value of ten pounds, was packed up in a case, and sent to a carrier's office, to be conveyed to the house of S——, near Lymington. The proper notice was affixed in the office pursuant to sect. 2, of this act. The words "looking-glass," and "keep this side upwards," were written on the case, but no express declaration was made of the nature and value of the goods, or any increased rate of carriage paid or tendered. The parcel was conveyed from Lymington to S——'s house on a brewer's truck (that being the usual mode of conveyance of parcels in that part of the country) on which it could not be placed in the manner directed; and the glass, when unpacked, was found to be broken. Held that the carrier was not liable for the damage.

The act extends to all the articles enumerated in this section, although not within the words of the preamble, "an article of great value in small compass." *Owen v. Burnett*, 4 Tyr. 133; 2 Cr. & M. 353.

¶. That for the purposes of this act every office, warehouse, or receiving house which shall be used or appointed by any mail contractor, or stage coach proprietor or other such common carrier as aforesaid for the receiving of parcels to be conveyed as aforesaid, shall be deemed and taken to be the receiving house, warehouse, or office of such mail contractor, stage coach proprietor, or other common carrier; and that any one or more of such mail contractors, stage coach proprietors, or common carrier shall be liable to be sued by his, her, or their name or names only; and that no action or suit commenced to recover damages for loss or injury to any parcel, package, or person, shall abate for the want of joining any co-proprietor or co-partner in such mail, stage coach, or other public conveyance by land for hire as aforesaid.

No. I.
1 W. 4, c. 68.
Every office used to be deemed a receiving house; and any one coach proprietor or carrier shall be liable to be sued.

VII. Provided always, That nothing in this act contained shall extend or be construed to annul or in anywise affect any special contract between such mail contractor, stage coach proprietor, or common carrier, and any other parties, for the conveyance of goods and merchandizes.

Not to affect contracts.

VIII. Provided also, That where any parcel or package shall have been delivered at any such office, and the value and contents declared as aforesaid, and the increased rate of charges been paid, and such parcels or packages shall have been lost or damaged, the party entitled to recover damages in respect of such loss or damage shall also be entitled to recover back such increased charges so paid as aforesaid, in addition to the value of such parcel or package.

Parties entitled to damages for loss may also recover back extra charges.

IX. Provided also, That nothing in this act shall be deemed to protect any mail contractor, stage coach proprietor, or other common carrier for hire from liability to answer for loss or injury to any goods or articles whatsoever arising from the felonious acts of any coachman, guard, book-keeper, porter, or other servant in his or their employ, nor to protect any such coachman, guard, book-keeper, or other servant from liability for any loss or injury occasioned by his or their own personal neglect or misconduct.

Nothing herein to protect felonious acts.

X. That in all actions to be brought against any such mail contractor, stage coach proprietor, or other common carrier for hire shall not be concluded as to the value of any such parcel or package by the value so declared as aforesaid, but that he or they shall in all cases be entitled to require, from the party suing in respect of any loss or injury, proof of the actual value of the contents by the ordinary legal evidence, and that the mail contractors, stage coach proprietors, or other common carriers as aforesaid shall be liable to such damages only as shall be so proved as aforesaid, not exceeding the declared value, together with the increased charges as before mentioned.

Coach proprietors and carriers liable only to such damages as are proved.

XI. That in all actions to be brought against any such mail contractor, stage coach proprietor, or other common carrier as aforesaid, for the loss of or injury to any goods delivered to be carried, whether the value of such goods shall have been declared or not, it shall be lawful for the defendant or defendants to pay money into court in the same manner and with the same effect, as money may be paid into court in any other action.

Money may be paid into court in all actions for loss of goods.

XII. That this act shall be deemed and taken to be a public act, and shall be judicially taken notice of as such by all judges, justices, and others, without being specially pleaded.

Public Act.

[No. II.] 1 & 2 W. IV. c. 58.—An Act to enable Courts of Law to give Relief against adverse Claims made upon Persons having no Interest in the Subject of such Claims.

[20th October 1831.]

Upon application by a defendant in an action of assumpsit, &c. stating that the right in the subject matter is in a third party, the court may order such third party to appear and maintain or relinquish his claim, and in the meantime stay proceedings in such action.

WHEREAS it often happens that a person sued at law for the recovery of money or goods wherein he has no interest, and which are also claimed of him by some third party, has no means of relieving himself from such adverse claims but by a suit in equity against the plaintiff and such third party, usually called a bill of interpleader, which is attended with expence and delay; for remedy thereof be it enacted, &c., That upon application made by or on the behalf of any defendant sued in any of his Majesty's courts of law at Westminster, or in the court of common pleas of the county palatine of Lancaster, or the court of pleas of the county palatine of Durham, in any action of assumpsit, debt, detinue, or trover, such application being made after declaration, and before plea, by affidavit or otherwise, showing that such defendant does not claim any interest in the subject matter of the suit, but that the right thereto is claimed or supposed to belong to some third party who has sued or is expected to sue for the same, and that such defendant does not in any manner collude with such third party, but is ready to bring into court or to pay or dispose of the subject matter of the action in such manner as the court (or any judge thereof) may order or direct, it shall be lawful for the court, or any judge thereof, to make rules and orders calling upon such third party to appear and to state the nature and particulars of his claim, and maintain or relinquish his claim, and upon such rule or order to hear the allegations as well of such third party as of the plaintiff, and in the meantime to stay the proceedings in such action, and finally to order such third party to make himself defendant in the same or some other action, or to proceed to trial on one or more feigned issue or issues (1), and also to direct which of the parties shall be plaintiff or defendant on such trial, or, with the consent of the plaintiff and such third party, their counsel or attorneys, to dispose of the merits of their claims and determine the same in a summary manner, and to make such other rules and orders therein as to costs and all other matters as may appear to be just and reasonable (2).

(1) Where an issue has been directed by the court to try the right of contending parties to the property in question, and the intermediate party has paid money into court to abide the event of the issue, the successful party cannot move to have the money paid out to him until final judgment has been signed. *Cooper v. Lead Smelting Company*, 9 Ring. 634; 2 Mo. & S. 810; 1 Dowl. 728, S. C.

(2) The object of this statute is to give relief, without compelling the party seeking it to have recourse to a bill of interpleader. The act does not take away the right of a party to file a bill of interpleader, for the remedy is merely concurrent. And if a sheriff or stakeholder have filed such a bill, then having made his election, the common law courts will not interfere. *Chitty's Gen. P. L.* vol. 2, 345.

As the statute in express terms is limited to actions of assumpsit, debt, detinue and trover, many cases will arise to which the act will not apply, but resort must be had to a court of equity. Frequently a plaintiff has an election to proceed in an action of trespass or trover; and if he wish to avoid a summary application under the above act, he may do so by issuing his writ, and declaring in trespass. So by declaring in covenant on a lease instead of debt, it would seem doubtful whether the court could interfere under the terms of the act, and case and replevin are certainly not actions within the act. *Ibid.* 346.

It has been held that the statute does not extend to equitable claims; *Sturges v. Claude*, 1 Dowl. 505; but such a construction does not seem necessarily to arise from the words of the act.

The provisions of the act are two-fold; first, such as relate to persons against whom actions have been brought for the recovery of money or goods, in which they have no interests, which are claimed by some third party; and second, such as are intended to afford relief to sheriffs and other officers in execution of process against goods and chattels.

With reference to the persons entitled to the benefit of the act, a party, who by his own act is placed in a situation to be sued, cannot call upon the court to substitute another defendant in his

II. That the judgment in any such action or issue as may be directed by the court or judge, and the decision of the court or judge in a summary manner, shall be final and conclusive against the parties, and all persons claiming by, from, or under them.

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1 & 2 W. 4,
c. 58.

Judgment and decision to be final.

stead; 9 Bing. 82; and a person who has paid over the proceeds to the execution creditor; *Anderson v. Calloway*, 3 Tyr. 237; 1 C. & M. 182, S. C.; will not be relieved under this act; and a defendant who is sued for the recovery of property in his possession, in which he has no interest, but which is claimed by a third party, cannot apply to be relieved under the statute against the claims of the plaintiff and such third party, if he has an indemnity from the claimant; and the court will discharge a rule obtained for that purpose, with costs. *Tucker v. Morris*, 1 C. & M. 73; 1 Dowl. 639, S. C.

A lien, however, attaching upon the goods in dispute, and which must be satisfied by the party who ultimately turns out to be entitled to them, does not prevent the party who hold the goods from applying to the court for relief. *Cotter v. Bank of England*; 3 Mo. & S. 180; 2 Dowl. 728, S. C. But the case of a wharfinger who claims a lien in goods for wharfage, &c., which attaches only on one of the parties by whom the goods are claimed is not within the act. 2 Mo. & S. 131; 9 Bing. 84. Goods consigned to A., and warehoused in the London docks, were claimed by B. The Dock Company refused to deliver them to A., without an indemnity, whereupon A. brought trover, with counts for special damage for the detention. The company applied for relief under this act. The court held that B., who did not appear after due notice, was barred of his claim against the company, but that the statute did not preclude A. from proceeding to recover for his special damage, if any, and made a rule, that on the company undertaking to deliver up the goods, if A. accepted them, his action should be discontinued on payment of costs by the company; but if he chose to proceed, the count in trover should be struck out, and he should proceed for the special damage only. *Lucas v. London Dock Company*, 4 B. & Ad. 378.

The court cannot relieve a stakeholder until action brought against him and declaration; but if acting with faith, he will be allowed his costs out of the fund in dispute, which will be ultimately paid by the unsuccessful party. *Parker v. Linnett*, 2 Dowl. 562. A person claiming, but not a party to the rule, cannot be heard upon a rule obtained by the sheriff under the interpleader act; and if called upon in one character, he cannot appear in another. Where a landlord gives notice of his claim for rent in proper time, the sheriff ought to pay him, otherwise he will be subject to the landlord's costs of appearing. Where the rule called upon the assignees of a bankrupt, who claimed under a fiat, afterwards superseded, the sheriff was held not liable to pay the costs of the assignee's appearance. *Clarke v. Lord*, 2 Dowl. 55. Where the sheriff took goods under an execution, and the defendant gave the sheriff notice that the goods were the property of A., the sheriff having obtained a rule under the interpleader act, and A. not appearing to show cause, the court made the rule absolute for barring A.'s claim, and made the defendant pay the costs of the sheriff's application. *Lewis v. Eicke*, 4 Tyr. 167; 3 C. & M. 321; S. C. Claimants neglecting to appear under the interpleader act are precluded by the terms of rule from enforcing their claim. *Ford v. Dillon*, 2 Nev. & Man. 662. A claimant under the interpleader act may appear without taking copies of the sheriff's affidavits. *Mason v. Keshaw*, 2 Dowl. 595. Where an action in the Common Pleas and also in the King's Bench is brought against a party, he must obtain rules in both courts under the interpleader act. If part of the sum claimed has been paid to one of the contesting parties, he must pay it into court before he can have relief under the interpleader act. *Allen v. Gilby*, 3 Dowl. 143. No rule for interpleading will be granted after a suit has been stayed by injunction. *Arayne v. Lloyd*, 1 Bing. N. C. 720. Where an issue is directed to be tried between an execution creditor and a claimant, brought before the court by the sheriff under the act, but the claimant refuses to try, and abandons his claim, he will be liable to pay the execution creditor's costs down to the time of the claim being abandoned, and of applying to take the money paid in by the sheriff out of court. *Wells v. Hopkins*; *Bragg v. the Same*, 3 Dowl. 346.

The rule under the first section of the act cannot be drawn up for a stay of proceedings, unless notice has been given. Such a rule may be drawn up to show cause at chambers. *Smith v. Wheeler*, 3 Dowl. 431.

As to Costs.—Where the applicant has acted *bond fide*, his costs will in the first instance be directed to be paid out of the fund or proceeds of the goods in dispute, to be repaired by the party ultimately unsuccessful. *Duenar v. Macintosh*, 3 M. & S. 174; 2 Dowl. 730, S. C.; *Cotter v. Bank of England*, 3 M. & S. 180.

When a claim is made by one on behalf of another to goods seized by the sheriff in execution, and upon a rule being obtained under this act neither party appears to show cause, the plaintiff is not entitled to receive his costs from the sheriff, but the plaintiff and sheriff are both entitled to their costs from the claimant or his agent, upon a rule to show cause. *Philby v. Ikey*, 2 Dowl. 222. Where the sheriff applies, but the claimant does not appear, the judgment creditor is entitled to have his costs from the claimant, but the sheriff has no costs. If the rule do not pray for costs, the order upon the claimant is only conditional, unless he shows cause within four days. *Peikins v. Penton*, *ib.* 108.

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If such third party shall not appear, &c. the court may bar his claim against the original defendant.

Provido as to orders made by a single judge.

If a judge thinks the matter more fit for the decision of the court, he may refer it.

For relief of sheriffs and other officers in execution of process against goods and chattels.

III. That if such third party shall not appear upon such rule or order to maintain or relinquish his claim, being duly served therewith (1), or shall neglect or refuse to comply with any rule or order to be made after appearance, it shall be lawful for the court or judge to declare such third party, and all persons claiming by, from, or under him, to be for ever barred from prosecuting his claim against the original defendant, his executors or administrators; saving nevertheless the right or claim of such third party against the plaintiff; and thereupon to make such order between such defendant and the plaintiff, as to costs and other matters, as may appear just and reasonable

IV. Provided always, That no order shall be made in pursuance of this act by a single judge of the court of pleas of the said county palatine of Durham who shall not also be a judge of one of the said courts at Westminster, and that every order to be made in pursuance of this act by a single judge not sitting in open court shall be liable to be rescinded or altered by the court in like manner as other orders made by a single judge.

V. Provided also, That if upon application to a judge, in the first instance or in any later stage of the proceedings, he shall think the matter more fit for the decision of the court, it shall be lawful for him to refer the matter to the court; and thereupon the court shall and may hear and dispose of the same in the same manner as if the proceeding had originally commenced by rule of court, instead of the order of a judge.

VI. And whereas difficulties sometimes arise in the execution of process against goods and chattels, issued by or under the authority of the said courts, by reason of claims made to such goods and chattels by assignees of bankrupts and other persons not being the parties against whom such process has issued, whereby sheriffs (2) and other officers

Where an issue is tried by the direction of the court, the unsuccessful party is liable for the costs. *Bowen v. Bramridge*, 2 Dowl. 213. And where an issue was directed to be tried between an execution creditor and a claimant, brought before the court by the sheriff, but the claimant refused to try it, and abandoned his claim, he was held liable to pay the execution creditor's costs down to the time of the abandonment of the claim, and his costs of applying to take out the money paid into court by the sheriff. *Wills v. Hopkins*, 3 Dowl. 346.

Where, in consequence of a claim made to goods seized by the sheriff in execution, the court ordered the claimant to proceed to trial, upon paying a sum of money into court, which he neglected to do, and a rule was then obtained to compel him to pay the costs occasioned by his false claim; held, that he was liable to pay those costs, as well as the costs of that rule, though no previous application had been made to him. *Scales v. Sargeson*, 3 Dowl. 707.

(1) If the parties to the rule do not appear, there must be an affidavit of service upon them before the court will entertain the motion. *Phillips v. Spry*; *Lambert v. Townsend*; *Jervis's Rules*, p. 40, App. 2d ed. Claimants neglecting to appear are precluded, by the terms of the rule, from enforcing their claim. *Ford v. Dillon*, 2 Nev. & M. 662. But an execution creditor is not "a third party" within the act, so as that his claim will be barred by his not appearing under the rule. *Donniger v. Hinsman*, 2 Dowl 424.

(2) At common law the courts would in general protect their own officers when acting *bona fide* in executing the process of the court (as a sheriff acting in obedience to a writ of *fi. fa.*) from the risk of liability to two different claimants, as where he had seized goods under a writ of *fi. fa.*, provided he applied to the court as soon as he found himself in peril; as if upon such seizure he had notice that the party whose goods he had taken had committed an act of bankruptcy, and that assignees claimed the property, as there was a reasonable doubt whether the goods were not liable to an extent of the crown, the court would enlarge the time for returning the writ, when ruled by the plaintiff to do so, until he or the assignees had indemnified him, or had *inter se* settled their mutual claims, (see the decisions cited in *Chitty's G. P. L.*, vol. 2, p. 341,) and would compel the adverse claimant to try the right, whilst the proceeding against the sheriff or officer was suspended, or upon the terms of his bringing the proceeds into court to abide the result. At common law this was the only mode of relief to the sheriff who had seized goods in settlement, for he could not file a bill of interpleader, because, as observed by Lord Eldon, "a person cannot file a bill of interpleader who was obliged to put his case upon this, that as to some of the parties he might be a wrongdoer, as by the seizure and temporary detention of the goods." *Slingsby v. Boulton*, 1 Ves. & B. 334. For the same reason the court of King's Bench, on the motion of an auctioneer, who had, before notice of any third person's claim, sold under an execution by the direction of the

are exposed to the hazard and expence of actions; and it is reasonable to afford relief and protection in such cases to such sheriffs and other officers; be it therefore further enacted, That when any such claim shall be made to any goods or chattels taken or intended to be taken in execution under any such process, or to the proceeds or value thereof, it shall and may be lawful to and for the court from which such process issued, upon application of such sheriff or other officer made before or after the return of such process, and as well before as after any action brought against such sheriff or other officer, to call before them, by rule of court, as well the party issuing such process as the party making such claim, and thereupon to exercise, for the adjustment of such claims and the relief and protection of the sheriff or other officer, all or any of the powers and authorities herein-before contained, and make such rules and decisions as shall appear to be just, according to the circumstances of the case; and the costs of all such proceedings shall be in the discretion of the court (1).

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sheriff, gave him leave to bring the proceeds into court, with a stay of actions against him; *MS. Chitty's G. P. L.* 218, 341, n. (d).

(1) With respect to the sheriff, where process is issued out of different courts, and directed to the same sheriff, he must apply for relief to the respective courts out of which the process issues. *Bragg v. Hopkins*, 2 *Dowl.* 15. But cause cannot be shown against the rule at chambers; for, although the first section of the act gives such power to a single judge, yet, by the sixth section, it is granted to the court only. *Shaw v. Roberts*, *Ib.* 25; and see *Cook v. Allen*, *Ib.* 11.

The court will relieve the sheriff, in the case of a conflicting claim on property seized by him, though that claim be only of a lien on the property. *Ford v. Bayntum*, 1 *Dowl.* 357. But where a sheriff had levied under a *fi. fa.*, and while in possession he received notice that other writs of execution had been issued against the defendant's goods, and that the first execution creditor was not entitled to the whole proceeds of the levy, the court held that the sheriff was not entitled to relief under this statute. *Salmon v. James*, 1 *Dowl.* 369; and see *Day v. Waldoek*, *Ib.* 523. Nor will he be relieved, if he be placed in circumstances which give him an interest on either side. *Duddin v. Long*, 3 *Dowl.* 139; 1 *Bing. N. C.* 299. And where the sheriff applied, but it appeared that an attachment had been already obtained against him for not returning the writ, the court would only make the rule absolute, on the terms of his paying for moving for the attachment. *Alemore v. Adeane*, 3 *Dowl.* 498.

If a sheriff receives notice on the 23d of January of a claim to goods seized by him, he will not be entitled to relief, unless he comes to the court in Hilary Term. *Ridgway v. Fisher*, 3 *Dowl.* 567. But otherwise, where he received notice of an intended fiat of bankruptcy against the defendant, and came to the court on the second day of the term after the assignees were appointed. *Barker v. Phipson*, 3 *Dowl.* 590. And if he wish to obtain relief under it, he must go to the court promptly, and no supplemental affidavit explaining his delay will be allowed, when cause shown against the rule. *Cook v. Allen*, 2 *Dowl.* 11. In *Devereux v. John and Another*, the court said, "Although no time is mentioned in the act, yet the sheriff must come within a reasonable time. But here the sheriff suffers an action to be brought against him, and keeps possession of the goods for several months." Rule discharged, the sheriff paying the costs of all parties. 1 *Dowl.* 548. Where the sheriff seized under an execution on the 14th of December, a rule which had been obtained to set aside judgment and execution, was discharged on the 20th of January. On the 31st the sheriff obtained a rule under the interpleader act. It was held he ought to have applied earlier, and the rule was discharged with costs. *Semble*, He ought to have applied at the commencement of Hilary Term. *Cook v. Allen*, 2 *Dowl.* 11; 3 *Tyr.* 386; 1 *C. & M.* 542, S. C. So where a sheriff received notice of a claim on the 23d of January, he was held too late in applying for relief in Easter Term. *Ridgway v. Fisher*, 3 *Dowl.* 567. But a sheriff is sufficiently early if he comes to the court for relief within eleven days after notice of an expected claim. *Skipper v. Lane*, 2 *Dowl.* 784; 4 *Mo. & S.* 283, S. C. The court, however, will be guided by the special circumstances of the case, in determining whether the sheriff has applied sufficiently early. See *Dixon v. Ensell*, 2 *Dowl.* 621.

It has been held that the sheriff ought to deny collusion with any of the parties. *Dixon v. Ensell*, 2 *Dowl.* 621; and see *Cook v. Allen*, *ante*; but in *Donnizel v. Hinsman*, and *Dobbin v. Green*, 2 *Dowl.* 434, 509, it is said to be otherwise; and in a recent case, *Boonot v. Woodall*, 1 *Tyr. & Granger*, 11, the court of Exchequer, after referring to the act, decided that the sheriff need not deny collusion.

A sheriff is not entitled to relief, if he pays over the money to the execution creditor after notice of a claim by a third party. *Anderson v. Calloway*, 1 *Dowl.* 636; 1 *C. & M.* 182, S. C.; *Tidd's Sup.* 191; nor, if he delivers up any part of the goods to the claimant. *Braine v. Hunt*, 2 *Dowl.* 391; 4 *Tyr.* 243; 2 *C. & M.* 418, S. C.

Where the sheriff seized goods which had been distrained by the landlord, the court refused him relief, though he had applied for indemnity to the execution creditor, and been refused. *Haythorn*

No. II.
1 & 2 W. 4,
c. 58.

Rules, orders,
&c. made in
pursuance of
this act may be
entered of
record, and
made evidence.

Costs.

Writs.

Sheriff's fees.

VII. That all rules, orders, matters, and decisions to be made and done in pursuance of this act, except only the affidavits to be filed, may, together with the declaration in the cause (if any), be entered of record, with a note in the margin expressing the true date of such entry, to the end that the same may be evidence in future times, if required, and to secure and enforce the payment of costs directed by any such rule or order, and every such rule or order so entered shall have the force and effect of a judgment, except only as to becoming a charge on any lands, tenements, or hereditaments; and in case any costs shall not be paid within fifteen days after notice of the taxation and amount thereof given to the party ordered to pay the same, his agent or attorney, execution may issue for the same by *fi. facias* or *capias ad satisfaciendum*, adapted to the case, together with the costs of such entry, and of the execution if by *fi. facias*; and such writ and writs may bear teste on the day of issuing the same, whether in term or vacation; and the sheriff or other officer

v. Bush, 2 Dowl. 641. But where the sheriff seized under a *fi. fa.* and a third person claimed, it was held, that the sheriff was not bound to take an indemnity from the execution creditor, but might apply for relief under this act. *Levy v. Champneys*, 1b. 454. It has been seen that the sheriff will not be relieved where he has paid over the proceeds of the execution; so also any neglect on his part, with regard to the goods in question, will prevent his being relieved. *Brackenbury v. Laurie*, 3 Dowl. 180.

Again, it seems that to entitle the sheriff to relief, an actual claim must have been made to the goods seized under the execution. And where a notice was given by some person whose name did not appear, "that a fiat in bankruptcy had been issued against the defendant, and that assignees had been chosen," it was held not a sufficient claim; *Bentley v. Hook*, 2 C. & M. 426; 4 Tyr. 229, S. C.: and in order to entitle the sheriff to relief, it must not only appear that a claim has been made, but also that there has been something done on the part of the alleged claimants, which shows that they intend to enforce their claims against the property seized; *Isaac v. Spilsbury*, 10 Bing. 3; 2 Dowl. 211; 3 M. & S. 341, S. C.: but, on the other hand, the sheriff need not wait for proceedings to be taken against him before he applies to the court for relief; *Green v. Brown*, 3 Dowl. 337.

Where the sheriff is before the court for relief, no one has a right to be heard against the rule, unless he is called upon by the rule, though he is in fact a claimant; and if he is called on in one character, he cannot appear in another; *Clarke v. Lord*, 2 Dowl. 55.

As to the Costs of the Sheriff.—Where an adverse claim is set up to goods seized by the sheriff, and the latter applies to the court for relief, and the adverse party does not appear to support his claim, the court will bar his claim as to the sheriff, and make him pay the judgment creditor his costs of appearing on the sheriff's rule; *Bowdler v. Smith*, 1 Dowl. 417; and see *Perkins v. Burton*, 3 Tyr. 51; 2 Dowl. 108. Where a *fi. fa.* was issued, goods seized under it, an adverse claim set up, and the sheriff applied for relief under this act, and the execution creditor did not appear to support his *fi. fa.*, the court granted the costs of the adverse claimant's appearing to support his claim to be paid by the execution creditor, but not those of the sheriff; but the execution creditor having afterwards appeared and opened the rule, the court granted the sheriff the costs of his second appearance; *Bryant v. Ikey*, 1 Dowl. 428. As the sheriff, before the statute, was not entitled to the costs of applying to the court for enlarging the time to make his return, so he is not entitled under this statute to the costs of his application; *Ib.* Per Patteson, J.

The sheriff ought to exercise considerable caution in coming to the court for relief, for he is bound to inquire into the nature of the claims set up; and therefore, if he bring parties before the court in consequence of a claim which is clearly bad in point of law, the court will compel him to pay costs; *Bishop v. Hinsman*, 2 Dowl. 166. The sheriff having taken goods in execution while there was rent due to the landlord, which he claimed of the sheriff, the latter brought the landlord, with other claimants, into court, under the above act. The court ordered the sheriff to pay the rent upon the landlord's giving security, and also to pay his costs. It was held, that the sheriff was liable to pay the expence of the security; *Clarke v. Lord*, 2 Dowl. 227.

The court will allow the sheriff who applies for relief, such expences as he may incur as agent of the parties after his application; *Dabbs v. Humphries*, 3 Dowl. 377; 1 Bing. N. C. 412. But where the claimant does not appear, the sheriff will not have his costs, nor will the plaintiff be allowed his costs, except in the event of extremely improper conduct in the parties; *Orum v. Sheldon*, 3 Dowl. 640; but see *Philby v. Ikey*, 2 Dowl. 222. In other cases the costs of the proceedings are declared by this act to be in the discretion of the court; *Tidd's Supp.* 192.

The sheriff's right to poundage depends upon the event of the application or suit, and that be determined in favour of the execution creditor, the sheriff will, of course, be entitled to his poundage, but otherwise not; *Parker v. Booth*, 8 Bing. 85; *Northcote v. Beauchamp*, 1b. 86; *Barker v. Dynes*, 1 Dowl. 169; *Bowdler v. Smith*, 1b. 417.

executing any such writ shall be entitled to the same fees, and no more, as upon any similar writ grounded upon a judgment of the court.

VIII. And whereas by a certain act made and passed in the last session of parliament, intituled *An Act to improve the Proceedings in Prohibition and on Writs of Mandamus*, it was among other things enacted, that it should be lawful for the court to which application may be made for any such writ of mandamus as is therein in that behalf mentioned to make rules and orders calling not only upon the person to whom such writ may be required to issue, but also all and every other person having or claiming any right or interest in or to the matter of such writ, to show cause against the issuing of such writ and payment of the costs of the application, and upon the appearance of such other person in compliance with such rules, or in default of appearance after service thereof, to exercise all such powers and authorities, and make all such rules and orders applicable to the case, as were or might be given or mentioned by or in any act passed or to be passed during that present session of parliament for giving relief against adverse claims made upon persons having no interest in the subject of such claims: And whereas no such act was passed during the then present session of parliament; be it therefore enacted, That upon any such application as is in the said act and hereinbefore mentioned, it shall be lawful for the court to exercise all such powers and authorities, and make all such rules and orders applicable to the case, as are given or mentioned by or in this present act.

No. II.
1 & 2 W. 4,
c. 58.

Upon any application under 1 W. 4, c. 21, and this act, the court to exercise such powers and make such rules as are given by or mentioned in this act.

[No. III.] 3 & 4 W. IV. c. 99.—An Act for facilitating the Appointment of Sheriffs, and the more effectual Audit and passing of their Accounts; and for the more speedy Return and Recovery of Fines, Issues, forfeited Recognizances, Penalties, and Deodands; and to abolish certain Offices in the Court of Exchequer. [29th August 1833.]

WHEREAS the appointment of sheriffs, and the audit and passing of their accounts in the court of exchequer, are attended with unnecessary expence, delay, and trouble: For remedy whereof be it enacted, &c. That so much of an act passed in the third year of the reign of his Majesty king George the first, intituled *An Act for the better regulating the Office of Sheriffs, and for ascertaining their Fees, and the Fees for suing out their Patents and passing their Accounts*, as entitles and authorizes certain officers therein and in the schedule thereto mentioned to demand, take, and receive the fees named in the said schedule, and also the said schedule, and also an act passed in the said third year of the reign of his Majesty king George the first, intituled *An Act for better enabling Sheriffs to sue out their Patents and pass their Accounts*, be and the same are hereby repealed.

Repeal of part of 3 G. 1, c. 15, and of 3 G. 1, c. 16.

II. That from and after the passing of this act it shall not be necessary for any sheriff or sheriffs of any county, city, or town in England or Wales to sue out any patent or writ of assistance, or to make or pay proffers, nor shall any bailiff or bailiffs of liberties in England or Wales be required to make or pay any proffers, nor shall he or they have any day of prefixion, or be apposed, or take any oath or oaths before the curator baron to account, or account, or be cast out of court, as now or heretofore in use in his Majesty's court of exchequer, any law, statute, or usage to the contrary notwithstanding.

Sheriffs not to sue out patent or pass accounts in exchequer.

III. That whenever any person shall be duly pricked or nominated by his Majesty for and to be sheriff of any county in England or Wales, except the county palatine of Lancaster, the same shall be forthwith notified in the *London Gazette*, and a warrant in the form set forth in the schedule to this act shall be forthwith made out and signed by the clerk of the privy council, and transmitted by him to the person so nominated and appointed sheriff as aforesaid; and the appointment of sheriff thereby

Appointment of sheriff.

No. III.
3 & 4 W. 4,
c. 99.

made shall be as good, valid, and effectual in the law to all intents and purposes whatsoever as if the same had been made by patent under the great seal of Great Britain, or by any ways and means heretofore in use; and the sheriff and sheriffs so appointed as aforesaid shall thereupon, and upon taking the oath of office hereafter mentioned, have and exercise all powers, privileges, and authorities whatsoever usually exercised and enjoyed by sheriffs of counties in England and Wales, without any patent writ of assistance or other writ whatsoever, or entering into any recognizance by himself or sureties, and without payment of or being liable to pay any fees whatsoever for the same.

Clerk of peace
to enrol duplicate.

IV. Provided always, That a duplicate of the said warrant shall, within ten days next after the date of the same warrant, be transmitted by the said clerk of the privy council to the clerk of the peace of the county for which such person shall be nominated and appointed sheriff, to be by the said clerk of the peace enrolled, and which he is hereby required to enrol and keep without fee or reward.

Sheriff to appoint an under sheriff, and transmit a duplicate thereof to the clerk of the peace for the county.

V. That from and after the passing of this act every person so appointed sheriff as aforesaid shall, within one calendar month next after the notification of his appointment in the *London Gazette*, by writing under his hand, nominate and appoint some fit and proper person to be his under sheriff, and shall transmit a duplicate thereof to the clerk of the peace for the county, to be by him filed, and which he is hereby required to file, among the records of his office, and for which he shall be entitled to demand and have from such under sheriff the sum of five shillings, and no more; and such appointment and duplicate shall not be liable to any stamp duty whatever.

Oaths of sheriff
and under sheriff.

VI. That each and every person so appointed sheriff and under sheriff as aforesaid, except the sheriffs of London and Middlesex and their under sheriffs, shall, before he enter upon the execution of his office, take the oath of office heretofore and now required by law, which oath shall be fairly written on parchment (without being subject to any stamp duty) and signed by him, and shall and may be sworn before the barons of his Majesty's exchequer or any of them, or any one of his Majesty's justices of the peace for the county of which he shall be appointed sheriff or under sheriff; and the same shall be thereupon transmitted to the clerk of the peace for the same county, who is hereby required to file the same among the records of his office, and for which he shall be entitled to demand and have from such sheriff or under sheriff the sum of five shillings, and no more.

Prisoners and writs to be turned over by sheriffs at the expiration of their office to the incoming sheriff.

VII. That every sheriff of any county, city, liberty, division, town corporate, or place shall at the expiration of his office make out and deliver to the new or incoming sheriff a true and correct list and account under his hand of all prisoners in his custody, and of all writs and other process in his hands not wholly executed by him, with all such particulars as shall be necessary to explain to the said incoming sheriff the several matters intended to be transferred to him, and shall thereupon turn over and transfer to the care and custody of the said incoming sheriff all such prisoners, writs, and process, and all records, books, and matters appertaining to the said office of sheriff; and the said incoming sheriff shall thereupon sign and give a duplicate of such list and account to the sheriff going out of office, to whom the same shall be a good and sufficient discharge of and from all the prisoners therein mentioned and transferred to the said incoming sheriff, and the further charge of the execution of the writs, process, and other matters therein contained, without any writ of discharge, or other writ whatsoever; and the said incoming sheriff shall thereupon stand and be charged with the said prisoners, and also with the execution and care of the said writs, process, and other matters, contained in the said list and account, as fully and effectually as if the same writs and process had been turned over by indenture and schedule; and in case any sheriff shall refuse or neglect at the expiration of his office to make out, sign, and deliver such list and account as aforesaid, and to turn over the

process aforesaid in manner aforesaid, every such sheriff so neglecting or refusing shall be liable to make such satisfaction by damages and costs to the party aggrieved as he, she, or they shall sustain by such neglect or refusal.

No. III.
3 & 4 W. 4,
c. 99.

VIII. That the accounts of the present and future sheriffs of counties, cities, and towns within England (except the counties palatine of Chester, Lancaster, and Durham) shall from and after the passing of this act be examined and audited by the commissioners appointed or to be appointed for auditing public accounts under and by virtue of the three several acts herein-after next mentioned; (that is to say,) an act passed in the twenty-fifth year of the reign of his late Majesty king George the Third, intituled *An Act for better examining and auditing the Public Accounts of this Kingdom*; an act passed in the forty-sixth year of the reign of his said late Majesty king George the third, intituled *An Act for making more effectual Provision for the more speedy and regular Examination and Audit of the Public Accounts of this Kingdom*; and an act passed in the first and second years of the reign of his late Majesty king George the fourth, intituled *An Act to alter and abolish certain Forms of Proceedings in the Exchequer and Audit Office relative to Public Accountants, and for making further Provisions for the Purpose of facilitating and expediting the passing of Public Accounts in Great Britain*; and to render perpetual and amend an Act passed in the Fifty-fourth Year of His late Majesty, for the effectual Examination of the Accounts of certain Colonial Revenues; and all the powers and provisions now in force of the same acts shall extend and be applicable to the examination, audit, and discharge of the accounts of such sheriffs by the said commissioners (so far as those powers and provisions are applicable thereto, and are not varied by this act).

Sheriffs' accounts to be audited by commissioners for auditing public accounts.

25 G. 3, c. 52.

46 G. 3, c. 141.

1 & 2 G. 4,
c. 121.

IX. That every person and persons who now are or who hereafter shall be sheriff or sheriffs of any county, city, or town within England (except the said counties palatine of Chester, Lancaster, and Durham), shall within two calendar months next after the expiration of his or their office, or in case of the death of any sheriff or sheriffs the under sheriff by him or them appointed shall within two calendar months next after the death of such sheriff or sheriffs, transmit to the said commissioners for auditing public accounts a just and true account, under his or their hand or hands, of all sums received by such sheriff or sheriffs to or for the use of his Majesty, and of all sums paid or claimed by him or them, or on his or their behalf (save such sums as are or have been usually inserted and allowed in the bill of cravings), with all such particulars as shall be needful to explain the same: Provided always, That such under sheriff shall not be personally responsible for any sum or sums received by such deceased sheriff, but that the same shall be answered by the representatives of the said deceased sheriff, or otherwise in due course of law: Provided always, That the sheriff of Westmoreland shall yearly, within two calendar months next after the first day of January in every year, transmit or cause to be transmitted to the said commissioners for auditing the public accounts a like account under his hand, or the hand of his under sheriff, of all sums paid by him to or for the use of his Majesty within or during the year of our Lord next preceding, and of all sums paid or claimed by him or on his behalf during the same period (save such sums as are or have been usually inserted in the bill of cravings), with all such particulars as shall be needful to explain the same.

Sheriffs going out of office (except those of Chester, Lancaster, and Durham) to transmit accounts to commissioners.

Sheriff of Westmoreland to transmit like accounts yearly.

X. That in case it shall be necessary for any such sheriff or sheriffs, or his or their under sheriff, to make oath or affidavit to any such account, or any article, matter, or thing relating thereto, such oath or affidavit, except when the said commissioners shall require his or their personal examination before them, shall and may be sworn before any of the judges of his Majesty's superior courts of record at Westminster, or before any commissioner for taking affidavits in any of the same courts,

The oath or affidavit of sheriff, may be taken before a judge, commissioner, or magistrate.

No. III.
3 & 4 W. 4,
c. 99.

Bill of cravings
to be settled
by the treasury.

Quit rents, &c.
to be received
by commis-
sioners of
woods, forests,
and land reve-
nues.

Power to trea-
sury to release
certain rents.

Certain parts of
32 G. 2, c. 14,
repealed.

Sheriffs not to
be chargeable
with pre-fines
or post-fines.

or before any master or master extraordinary in the high court of chancery, or before any of his Majesty's justices of the peace.

XI. That the claim of every sheriff or sheriffs for certain allowances usually called the bill of cravings shall, from and after the passing of this act, be preferred to the lord high treasurer or the commissioners of his Majesty's treasury for the time being, who, or any three or more of whom, shall and may grant a warrant for the allowance of the same in the account of such sheriff or sheriffs, or for the payment of such sum or sums of money in respect thereof as they shall think reasonable in that behalf.

XII. And whereas the present mode of managing and collecting certain quit rents and viccomital or viscontiel rents due to his Majesty, and the present mode of accounting for and paying post-fines on alienation of lands and other hereditaments, have been found disadvantageous to the public service, and inconvenient and troublesome to sheriffs; for remedy whereof be it enacted, That from and after the tenth day of October next no sheriff or sheriffs shall receive or shall be chargeable with the collection and receipt of quit rents, viccomital or viscontiel rents, and other rents or payments issuing out of or payable to his Majesty in respect of any honors, manors, lands, tenements, or hereditaments in England or Wales, but the same (except such as shall be released pursuant to the provision next herein-after contained) shall hereafter be considered as part and parcel of the land revenue of the crown, and shall be under the care, management, and direction of his Majesty's commissioners of woods, forests, and land revenue, who shall have and exercise the same powers and authorities for collecting and enforcing the payment thereof as are given to or vested in them for collecting and enforcing payment of any other part of his Majesty's land revenue by any act or acts now in force concerning the same.

XIII. And whereas many of the said rents are very ancient, and have become obsolete, and it is not known out of or from what hereditaments and premises the same are issuing and payable, so that payment thereof cannot be enforced; be it therefore enacted, That it shall be lawful for the lord high treasurer or the commissioners of his Majesty's treasury, and he and they are hereby empowered, by warrant under his or their hands, to remit, release, and discharge all or any of the same rents, and the arrears thereof, or any part thereof.

XIV. That so much of an act passed in the thirty-second year of the reign of his Majesty king George the second, intituled *An Act for the more regular and easy collecting, accounting for, and paying of post-fines which shall be due to the crown, and for the ease of sheriffs in respect of the same*, as requires the receiver of pre-fines at the alienation office to become bound by recognizance to pay, or to pay to any sheriff on producing his quietus, the sum total of the post-fines mentioned in such quietus, and as requires such receiver to become in like manner bound to pay, or to pay unto all and every the lords of liberties, proprietors and grantees of post fines under the crown, or to their lawful bailiffs or attorney, on producing the respective schedules of the foreign apposer or clerk of the estreats of the court of exchequer, the sums of money in such schedules contained, be and the same is hereby repealed.

XV. That no sheriff or sheriffs of any county, city, or town within England and Wales shall from henceforth receive or be charged or chargeable with any fine or fines usually called pre-fines and post-fines, payable on alienation of lands or other hereditaments, but the same fines shall be received by the said receiver general of alienation fines, who shall pay and apply the same to such person or persons, in such sums, and in such manner as the lord high treasurer or the commissioners of his majesty's treasury shall, by warrant under his or their hands, order or direct, except as to any such fine or fines, sum or sums of money, as shall or may be ordered to be paid by any order of his Majesty's court of exchequer in pursuance of the provision herein-after contained.

XVI. Provided always, That nothing herein contained shall extend to the pre-fines and post-fines arising within the county palatine of Lancaster, which last-mentioned pre-fines and post-fines shall be received and accounted for in like manner as hath heretofore been accustomed.

XVII. That for the better information of all persons interested in or who may claim title to the fines last before mentioned, or any of them, the receiver general of alienation fines shall provide and keep books, in which he shall, in the English language, in a common and legible hand and character, and as to sums and dates in words at length, enter and keep a true and full account of every pre and post fine received by him, and in what town, parish, or place the premises are situate in respect of which the same fine or fines shall have been paid or received; all which books shall at all seasonable times be open to the inspection and examination of all and every body corporate or politic, person and persons, claiming to be entitled to or interested in the same fines or any of them, and his and their bailiff or bailiffs, agent or agents

No. III.
3 & 4 W. 4,
c. 99.

Not to extend to the county palatine of Lancaster.

Receiver general to keep books, with liberty of inspection to persons entitled to fines.

XVIII. That it shall be lawful for the lord high treasurer or any three of the commissioners of his Majesty's treasury, by warrant under his or their hand, from time to time to order and direct the said receiver general to pay such of the same fines, or any of them, or any part thereof, to any body politic or corporate, person or persons, entitled to the same, or to his, her, or their bailiff or bailiffs, agent or agents: Provided always, that notwithstanding such payment, any body politic or corporate, person or persons, aggrieved thereby, shall and may apply by petition in the manner herein-after mentioned against the party or parties to whom such payment shall have been made, to restore or refund the sums by him or them so received.

Treasury may order payment to parties entitled.

XIX. Provided always, That in case the commissioners of his Majesty's treasury shall neglect, refuse, or decline to order the payment of any fine or fines received by the receiver general of alienation fines which shall be claimed by any body corporate or politic, person or persons, or if any party shall be aggrieved by any order for payment made by the said commissioners, it shall be lawful for any such body corporate or politic, person or persons, to apply by petition, in a summary manner, to the lord chief baron and the other barons of his Majesty's court of exchequer, setting forth the nature of the claim or title of the petitioner or petitioners; and thereupon the said barons of his Majesty's court of exchequer shall and they are hereby authorized to proceed to call the proper parties before them, and to hear and determine the matter of the said petition, and to give such costs and to make such order or orders therein as they shall consider just; and in case payment be thereby ordered of any sum or sums of money in respect of such fines, or any of them, by the said receiver general of alienation fines, he is hereby authorized and required to pay the same according to such order or orders.

On refusal of treasury, appeal may be made to the court of exchequer by petition.

XX. That from and after the passing of this act the accounts of the said receiver general of alienation fines shall be audited and examined by the said commissioners appointed or to be appointed for auditing public accounts under and by virtue of the said herein-before recited acts passed in the twenty-fifth and forty-sixth years of the reign of his late Majesty king George the third, and the said recited act, passed in the first and second years of the reign of his late Majesty king George the fourth; and all the powers and provisions now in force of the same acts, so far as the same are applicable to such accounts of the said receiver general, and not varied by this act, shall extend and be applicable to the accounts of the said receiver general in the same manner and as fully and effectually as if the said receiver general had been named and included in the said last-mentioned acts as a public accountant.

Accounts of receiver general to be audited by commissioners for auditing public accounts.

XXI. Provided always, That it shall not be necessary to declare the accounts by this act required to be audited by the commissioners of public accounts by or before the chancellor of the exchequer, but the said commissioners of audit shall transmit a statement of every account examined and audited by them under the authority of this act to the lord

Accounts when audited to be transmitted to lords of treasury.

No. III.
3 & 4 W. 4,
c. 99.

high treasurer or the commissioners of the treasury for the time being, who, having considered such statement, shall return the same to the commissioners of audit, together with his or their warrant, directing them to make up and pass the account, either conformably to the statement, or with such variations as he or they may deem just and reasonable; and the account having been made up pursuant to such directions, and signed by three or more of the said commissioners for auditing the public accounts, shall remain deposited in the audit office, and shall have the same force and validity, and be as efficient in law for all purposes whatsoever, as if the same had been declared according to the usual course by the chancellor of the exchequer; and the said commissioners shall thereupon, as soon as conveniently may be, cause such or the like certificate thereof, in the nature of a *quietus*, to be made out and delivered as is now practised by them with regard to declared accounts, and which shall be equally valid and effectual to discharge the accountants, and to all other intents and purposes.

Part of stat.
22 & 23 C. 2,
c. 22, requiring
fines, &c. to be
certified and
estreated into
the exchequer
twice a year
repealed.

XXII. And whereas an act was passed in the twenty-second and twenty-third years of the reign of his late Majesty king Charles the second, intituled *An Act for the better and more certain recovery of Fines and Forfeitures due to his Majesty*, and which act was made perpetual by an act made in the fourth and fifth years of the reign of their late Majesties king William and Queen Mary: And whereas it is expedient that further provision should be made for the speedy and regular return of fines, issues, amerciaments, penalties, forfeited recognizances, and doandals, in certain cases; be it therefore further enacted, That from and after the tenth day of October next so much of the aforesaid act passed in the twenty-second and twenty-third years of the reign of his late Majesty king Charles the second as requires all fines, forfeitures, issues, amerciaments, forfeited recognizances, sum and sums of money paid in lieu and satisfaction of them or any of them, and all other forfeitures whatsoever set, imposed, lost, or forfeited in his Majesty's courts of king's bench, common pleas, or exchequer, or by or before any judge or judges of assize, clerk of the market, or commissioners of sewers, throughout the kingdom of England, to be certified and estreated into the court of exchequer twice in every year yearly, at the times thereby appointed, and also such part of the aforesaid act of their late Majesties king William and Queen Mary as makes perpetual the aforesaid provisions contained in reign of act passed in the twenty-second and twenty-third years of the said king Charles the second, shall be and are hereby repealed.

Clerk of parliament to return to treasury or to commissioners an account of fines set in the house of lords;

XXIII. That the clerk of the parliament shall, within fourteen days next after every session of parliament, make out an account of all and every fines or fine which shall or may be set or imposed, and also of all recognizances ordered to be estreated, by the lords spiritual and temporal in parliament assembled during such preceding session of parliament with the names and residences of the parties, and distinguishing such of the said fines as shall have been received, and transmit the same to the lord high treasurer or to the commissioners of his Majesty's treasury, and also a duplicate thereof to the said commissioners for auditing the public accounts, and also shall, within the time aforesaid, certify and estreat all such fines as shall not have been received by him in and into his Majesty's court of exchequer.

and pay fines received as treasury shall direct.

XXIV. That all fines which shall be received by the said clerk of the parliament shall be paid by him to such person or persons, at such times and in such manner as the lord high treasurer, or any three of the commissioners of his Majesty's treasury, shall by warrant direct.

Clerk of house of commons to make return of all recognizances.

XXV. That the clerk of the house of commons shall, within fourteen days next after every session of parliament, make out an account of all recognizances certified by the speaker of the said house or estreated by him into the exchequer, with the names and residences of the parties, and transmit the same to the lord high treasurer, or to the commissioners of his Majesty's treasury, and also a duplicate thereof to the said commissioners for auditing the public accounts.

XXVI. That the king's coroner and attorney of his Majesty's court of king's bench, and the prothonotaries of his Majesty's court of common pleas, and his Majesty's remembrancer of the court of exchequer, and also the masters and prothonotaries of the office of pleas in the same court, respectively, shall on the first day of every term make out an account of all fines, issues, amerciaments, penalties, and recognizances set, lost, imposed, or forfeited to or for the use of his Majesty in the said courts respectively, and not before estreated, with the names and residences of the parties, and distinguishing such as shall have been paid, and transmit the same to the commissioners of his Majesty's treasury, and also a duplicate thereof to the said commissioners for auditing the public accounts.

XXVII. That the said coroner and attorney of his Majesty's court of king's bench, the prothonotaries of the court of common pleas, and the master and prothonotaries of the office of pleas, and king's remembrancer, respectively, shall on the first day of every term, and at such other time or times as they shall respectively be ordered or required so to do by any order of the said courts respectively, or by the order of any judge or baron thereof, certify and estreat all such fines, issues, amerciaments, penalties, and recognizances set, lost, imposed, or forfeited as aforesaid, and not received by them respectively, in and into the said court of exchequer.

XXVIII. That all such fines, issues, amerciaments, penalties, and recognizances set, lost, imposed, or forfeited as aforesaid, which shall be received by any of the said officers of the said courts of king's bench, common pleas, or exchequer, shall be paid by them respectively to such officer or officers or to such person or persons entitled thereto, and at such times and in such manner as the lord high treasurer or the commissioners of his Majesty's treasury shall by warrant under his or their hands direct.

XXIX. That an account in writing of all fines, issues, amerciaments, penalties, and recognizances set, lost, imposed, or forfeited to or for the use of his Majesty by or before any judge or judges of assize, clerk of the market, or commissioners of sewers, throughout the kingdom of England, and also all deodands found or forfeited to or for the use of his Majesty throughout the same kingdom, shall, within fourteen days next after any such fines, issues, amerciaments, penalties, recognizances, or deodands shall respectively be set, lost, imposed, forfeited, found, or accrue, be made out by the clerk of assize, clerk of the market, commissioners of sewers, and coroners, or other person or persons respectively to whom it doth appertain or belong to make estreat thereof, with the names and residences of the parties liable to make payment thereof respectively, and distinguishing such as shall have been paid or received; and two copies of such account when so made out shall be signed by the person or persons so required to make out the same, who shall, within the time last aforesaid, transmit one copy thereof to the commissioners of his Majesty's treasury, and another copy thereof to the commissioners for auditing the public accounts; and the same fines, issues, amerciaments, penalties, recognizances, and deodands shall also within the time last aforesaid be duly certified and estreated by such officers and persons respectively in and into the said court of exchequer; and all sum or sums of money which shall have been received for or on account of any such fines, issues, amerciaments, penalties, forfeitures, recognizances, or deodands shall be paid over by the parties respectively receiving the same unto the sheriff or sheriffs of the county, city, or town wherein the same shall have been set, lost, imposed, forfeited, found, or accrued, to the intent that such sheriff or sheriffs may be charged therewith, and duly account for the same.

XXX. Provided always, That in all cases where any fines, issues, recognizances, penalties, forfeitures, or deodands are required by any act or acts now in force to be estreated, upon oath, in or into the court of exchequer, such oath shall and may be sworn and taken before a judge or judge, &c.

No. III.
3 & 4 W. 4,
c. 99.

Account of fines in king's bench, common pleas, and exchequer to be transmitted to treasury and to commissioners of audit.

Unpaid fines to be estreated.

Fines, &c. received to be paid as treasury shall direct.

Account of fines by clerks of assize, commissioners of sewers, clerks of the market, and of deodands, to be transmitted to treasury and to commissioners of audit.

Where fines, &c. are now estreated upon oath, each oath may be taken before a judge, &c.

No. III.
3 & 4 W. 4,
c. 99.

of any of his Majesty's superior courts of record at Westminster, or before any commissioners for taking affidavits in the same courts, or before any master extraordinary in the high court of chancery, or before any of his Majesty's justices of the peace; and every such estreat shall be transmitted to and filed with his Majesty's remembrancer of the said court of exchequer, and received and entered by him without fee or reward.

Accounts of
estreats to be
transmitted to
treasury and to
commissioners
of audit.

XXXI. That his Majesty's remembrancer do and shall, on or before the first seal day next after every term, make out an account in writing of all fines, issues, amerciements, penalties, forfeited recognizances and deodands, estreated during the preceding vacation and term, and also of all returns within the same period of sheriffs to process issued for the purpose of levying any estreated fines, issues, amerciements, penalties, forfeited recognizances, and deodands, and shall, within the time last aforesaid, transmit and send one copy of such account to the commissioners of his Majesty's treasury, and another copy thereof to the said commissioners for auditing the public accounts.

Process to be
issued every
term, or oftener,
to levy estreats.

XXXII. That his Majesty's said remembrancer shall, on the first seal day next after every term, and also at any other time or times when required by the court of exchequer, or by the fiat or order of any baron thereof, make out and issue, or cause to be made out and issued, according to the practice of the court of exchequer, and without fee or reward, process for duly levying and enforcing payment of all such fines, issues, amerciements, penalties, forfeited recognizances, and deodands estreated as aforesaid (except as herein-after mentioned), which shall not theretofore have been levied, recovered, vacated, or discharged, and so from time to time until the same shall be fully paid or levied, vacated or discharged.

Power to trea-
sury to stay
process, and
discharge the
fines, &c.

XXXIII. That it shall be lawful for the lord high treasurer or the commissioners of his Majesty's treasury, and he or they are hereby authorized, by warrant under his or their hands directed to the proper officer or officers, to stay the issuing or execution of all or any process touching any of the matters set, lost, imposed, forfeited, or estreated as aforesaid, and to vacate and discharge such fines, issues, amerciements, penalties, forfeited recognizances, or deodands, or any of them, or any part thereof; provided that nothing in this clause contained shall extend to enable the said lord high treasurer or the commissioners of his Majesty's treasury to remit or restore any fine, issue, amerciements, penalty, forfeited recognizance, or deodand to which any body corporate or politic, person or persons, shall or may be entitled, which shall have been actually levied by or paid to them.

Power to per-
sons entitled to
any fines, &c.
to inspect ac-
counts.

XXXIV. That all bodies corporate and politic, and all and every other person or persons, having or claiming title to any fines, issues, amerciements, penalties, forfeited recognizances, deodands, sum or sums of money contained in any account transmitted by virtue of this act to the commissioners for auditing public accounts, shall and may, by themselves, or their, his, or her bailiff, steward, or agent, at all seasonable times, have access to the said accounts, and take minutes or extracts therefrom.

The treasury
may order pay-
ment of fines,
&c.

XXXV. That it shall be lawful for the lord high treasurer, or any three or more of the commissioners of his Majesty's treasury, from time to time to order and direct payment, by warrant under his or their hand of the said fines, issues, amerciements, penalties, forfeited recognizances, deodands, sum and sums or money, or any of them, to any body corporate, or politic, person or persons, entitled to the same, or to their, his, or her bailiffs, steward, or agent: Provided always, that notwithstanding such payment any body politic or corporate, person or persons, aggrieved thereby, shall and may apply by petition in the manner herein-after mentioned against the party or parties to whom such payment shall have been made, to restore or refund the sum or sums by him or them so received.

If treasury re-
claims, the

XXXVI. Provided always, That in case the commissioners of his

Majesty's treasury shall neglect, refuse, or decline to order the payment of any fines, issues, amerciaments, penalties, forfeited recognizances, deodands, sum or sums of money so claimed as aforesaid, or if any party shall be aggrieved by any order made by the said commissioners, it shall be lawful for any such body or bodies corporate or politic, person or persons, to apply, in a summary way, by petition to the lord chief baron and the other barons of his Majesty's court of exchequer, setting forth the nature of the claim or title of the petitioners or petitioner; and thereupon the said barons of his Majesty's court of exchequer shall and they are hereby authorized to proceed to call the proper parties before them, and to hear and determine the matter of the said petition, and to give such costs and to make such order and orders therein as they shall deem just.

No. III.
3 & 4 W. 4,
c. 99.

XXXVII. Provided also, That nothing herein contained shall extend or be prejudicial to the rights, privileges, and remedies of any bodies politic or corporate, or of any lord of any manor, liberty, or franchise whatsoever, or of any person or persons, claiming title under or by virtue of any grant from the crown, any thing herein contained to the contrary notwithstanding.

XXXVIII. Provided always, That nothing herein contained shall extend to prejudice or affect the power, jurisdiction, or authority of the lord chief baron and the other barons of his Majesty's court of exchequer as to the said fines, issues, amerciaments, penalties, forfeited recognizances, and estreats, or any process or proceedings thereon.

XXXIX. Provided always, That nothing herein contained shall extend or be prejudicial to the rights, liberties, or privileges of the king's most excellent Majesty, his heirs and successors, in right of his duchy or county palatine of Lancaster or duchy of Cornwall, or the duke of Cornwall when there shall be a duke of Cornwall or to the rights, liberties, or privileges, of the prince bishop of Durham and the county palatinate of Durham, or to the rights, customs, liberties, privileges, charter or charters of the city of London, but that the same rights and privileges shall be enjoyed and used as fully to all intents and purposes as before the passing of this act.

XL. Provided also, That nothing herein contained shall extend to or prejudice the rights, liberties, and privileges of the city and county of the city of Chester, but that the sheriffs thereof shall and may account and obtain their quietus in like manner as hath heretofore been accustomed.

XLI. And whereas many of the duties and much of the business of the lord treasurer's remembrancer and clerk of the pipe, and the offices connected therewith, in his Majesty's court of exchequer, have been transferred to other offices, or have ceased, or on the passing of this act will cease; and other duties have become obsolete; and it is expedient that the said offices and other offices connected therewith should be abolished, and the duties thereof remaining hereafter to be performed be transferred to and performed by his Majesty's remembrancer of the said court; be it therefore enacted, That from and after the tenth day of October next the several offices in his Majesty's court of exchequer hereafter mentioned; namely, of lord treasurer's remembrancer, together with the filacer, secondaries, deputy remembrancer, and sworn and other clerks and bagbearer belonging thereto; of clerk of the pipe, deputy clerk of the pipe, controller and deputy controller of the pipe, secondaries, attornies, or sworn and other clerks and bagbearer in the said office of the pipe; of clerk of the estreats; of surveyor of the green wax; of the foreign apposer and deputy foreign apposer, and of clerk of the nichills, shall wholly cease and determine.

XLII. And whereas it may be reasonable and fit that compensation should be made to the persons now holding the offices herein-before mentioned and hereby abolished, and to the other officers of the said court whose lawful fees and emoluments shall be taken away or diminished by this act, for the loss thereof; be it therefore enacted, That it

party may appeal to the court of exchequer.

Act not to prejudice rights of corporate bodies, &c.

This act not to affect jurisdiction of court of exchequer.

Act not to affect rights of county palatines or of city of London.

Rights of the city of Chester saved.

Lord treasurer's remembrancer and other offices in exchequer abolished.

Compensation to officers.

No. III.

3 & 4 W. 4,
c. 99.

shall be lawful for the lord high treasurer or commissioners of his Majesty's treasury for the time being, or any three or more of them, by warrant under their hands, to order and direct that such annual or other compensation shall be made to the persons now holding the offices hereby abolished, and to the other officers of the said court of exchequer whose lawful fees and emoluments are diminished by this act, for any loss thereof which they will respectively sustain by reason of the provisions of this act, as to the said commissioners of the treasury in their discretion shall seem just and reasonable; and all such compensations, whether annual or in gross, shall be issued and paid and payable out of and charged and chargeable upon the consolidated fund of the united kingdom of Great Britain and Ireland: Provided always, That an account of all such compensations shall within fourteen days next after the same shall be so granted be laid upon the table of the House of Commons, if parliament shall be then assembled, or if parliament shall not be then assembled, then within fourteen days after the meeting of parliament then next following.

Power to treasury to refer to the commissioners for compensation.

1 W. 4, c. 58.

1 & 2 W. 4,
c. 35.

XLIII. That for the better enabling the commissioners of his Majesty's treasury to form a correct judgment of the nature and amount of the compensations which it may be reasonable and proper to make to the said officers whose fees may be taken away or diminished as aforesaid, for the loss thereof, it shall and may be lawful for the commissioners of his Majesty's treasury, if they shall see fit, from time to time to refer all or any claims for such compensation to the examination and consideration of the commissioners appointed or to be appointed under and by virtue of an act passed in the first year of his present Majesty's reign, intituled *An Act for regulating the Receipt and future Appropriation of Fees and Emoluments receivable by Officers of the Superior Courts of Common Law*, and also by virtue of an act passed in the first and second years of the reign of his present Majesty, intituled *An Act to explain and amend an Act for regulating the Receipt and future Appropriation of Fees and Emoluments receivable by Officers of the Superior Courts of Common Law*; and such last-mentioned commissioners, in all such cases so referred to them, are hereby authorized and required to inquire and certify, in the manner directed by the said last-mentioned acts, the gross and net annual value of the lawful fees and emoluments of every such officer or person whose claim to compensation shall be referred to them as aforesaid, so that the account of such fees and emoluments be taken in respect of or for ten years, or such other time as the case may require, next preceding the first day of January one thousand eight hundred and thirty-three, instead of preceding the twenty-fourth day of May one thousand eight hundred and thirty.

Claimants to be liable to provisions of 1 W. 4, c. 58, and 1 & 2 W. 4, c. 35.

Records, &c. to be transferred to the King's remembrancer, subject to order.

XLIV. That the officers and persons claiming compensation under and by virtue of this act shall, for the purpose of such inquiry and certificate as aforesaid, be subject and liable to all such enactments, rules, penalties, matters, and things as or to which the persons claiming compensation under and by virtue of the said two last recited acts are thereby made subject and liable.

XLV. That the several records, books, and other public documents of and concerning the duties and business of the said offices so abolished as aforesaid shall upon or immediately after the said tenth day of October be delivered by the several officers or persons having custody of the same into the hands and care of the king's remembrancer of the said court of exchequer, to be by him preserved and kept; subject nevertheless to such rules, orders, and regulations as the lord chief baron and the other barons of the court of exchequer, and the lord high treasurer, or any three of the commissioners of his Majesty's treasury, shall or may from time to time ordain or make touching the same.

Process and future proceedings by King's remembrancer.

XLVI. That from and after the said tenth day of October all process and other proceedings, charges, discharges, estreats, matters, and things usually issued, done, had, received, filed, recorded, or taken by the officers whose offices are hereby abolished, or any of them, which shall

from thenceforth be by law required or needful to be issued, done, had, received, filed, recorded, or taken, shall and may be issued, done, had, received, filed, recorded and taken by his Majesty's remembrancer of the said court of exchequer, or by the officers in his office by and under his direction, according to the course and practice thereof, as fully and effectually to all intents, constructions, and purposes as the same might or could have been issued, done, had, or taken by the said officers whose offices are hereby abolished before the passing of this act; subject nevertheless to all such rules, orders, and regulations as shall or may be made from time to time for regulating or discontinuing the same by the lord chief baron and the other barons of his Majesty's court of exchequer, and which they are hereby authorized to make and ordain accordingly: Provided always, That the accounts of his Majesty's revenue of excise shall be enrolled once only by or in the said office of his Majesty's remembrancer.

No. III.
3 & 4 W. 4,
c. 99.

XLVII. That searches may be made, and copies or extracts of and from the said records, books, and documents shall and may be had and taken, at such times and in such manner and upon payment of such fees as the lord chief baron and the other barons of the said court of exchequer, together with the lord high treasurer or the commissioners of his Majesty's treasury, shall or may direct; and all such copies or extracts signed and authenticated by his Majesty's remembrancer, or such other person or persons as shall or may be appointed by him for that purpose, shall be as available in evidence, and as valid and effectual, to all intents and purposes, as the same would by law have been if the same had been signed, authenticated, and given before the passing of this act by the officers whose offices are hereby abolished, or any of them.

Searches may
be made and
copies taken,
which shall be
as available as
heretofore.

SCHEDULE to which this act refers.

At the court at
day of
excellent Majesty in council.

the
present, the king's most

To A. B. of, *et cetera*.

Whereas his Majesty was this day pleased, by and with the advice of his privy council, to nominate and appoint you for and to be sheriff of the county of _____ during his Majesty's pleasure: These are therefore to require you to take the custody and charge of the said county, and duly to perform the duties of sheriff thereof during his Majesty's pleasure; and whereof you are duly to answer according to law.

Dated this

day of

By his Majesty's command,

C. D.

PART IV.

CLASS XV.

WALES, COUNTIES PALATINE, AND LIBERTIES.

[For the 1 W. 4, c. 70, abolishing the jurisdiction of the courts of great session, both at law and in equity, in Wales, and also of the court of great session and court of exchequer of the county palatine of Chester, see *ante*, Part IV., Class I., p. 388.]

For the clauses of the above act relating to the admission of the attorneys belonging to the courts so abolished in the courts of Westminster, see *ante*, Part IV., Class II., p. 419.]

[No. I.] 4 & 5 W. IV. c. 62.—An Act for improving the Practice and Proceedings in the Court of Common Pleas of the County Palatine of Lancaster. [13th August 1834.]

WHEREAS various alterations and improvements have recently been made, by the authority of parliament and otherwise, in the practice and proceedings in the superior courts of common law at Westminster; and it is expedient that certain alterations and improvements should be effected in the practice and proceedings of the court of common pleas at Lancaster: Be it therefore enacted, &c., That the process in all personal actions hereafter to be commenced in the court of common pleas at Lancaster, where it is not intended to hold the defendant to special bail, shall, whether the action be brought by or against any person entitled to the privilege of peerage or of parliament, or of the said court, or of any other court, or to any other privilege, or by or against any other person, be according to the form contained in the schedule to this act annexed marked number 1, and shall be called a writ of summons; and in every such writ, and copy thereof, the place and residence or supposed residence of the party defendant, or wherein the defendant shall be or shall be supposed to be, shall be mentioned; and such writ shall be issued by the prothonotary of the said court, or his deputy, and shall be served in the manner heretofore used in the county palatine of Lancaster, and not elsewhere, and the person serving the same shall and is hereby required to indorse on the writ the day of the month and week of the service thereof.

Serviceable process for the commencement of personal actions.

Mode of appearance to serviceable process.

Appearance may be enforced by a writ of distringas, in case a defendant cannot be served with the writ of summons.

II. That the mode of appearance to every such writ or under the authority of this act shall be by delivering to the said prothonotary or his deputy a memorandum in writing, dated on the day of delivery thereof, according to the form contained in the said schedule and marked number 2.

III. That in case it shall be made appear by affidavit to the satisfaction of the said court or one of the judges thereof that any defendant has not been personally served with any such writ of summons as herein-before mentioned, and has not, according to the exigency thereof, appeared to the action, and cannot be compelled so to do without some more efficacious process, then and in any such case it shall be lawful for such court or judge, by rule or order, to order a writ of distringas to be issued, directed to the sheriff of the said county of Lancaster (or to any other officer to be named in such rule or order), to compel the appearance of such defendant, which writ of distringas shall be in the form and with the notice subscribed thereto mentioned in the schedule to this act marked number 3, which writ of distringas and notice, or a copy thereof, shall be served on such defendant, if he can be met with, or if not, shall be left at the place where such distringas shall be executed; and a true copy of every such writ and notice shall be delivered together

therewith to the sheriff or other officer to whom such writ shall be directed, and every such writ shall be made returnable on a day certain, to be named therein, not being less than fifteen days after the teste thereof; and if such writ of distringas shall be returned non est inventus and nulla bona, and the party issuing out such writ shall not intend to proceed to outlawry or waiver, according to the authority herein-after given, and any defendant against whom such writ of distringas issued shall not appear at or within eight days inclusive after the return thereof, and it shall be made appear by affidavit, to the satisfaction of the said court or one of the judges thereof, that due and proper means were taken and used to serve and execute such writ of distringas, it shall be lawful for such court or judge to authorize the party suing out such writ to enter an appearance for such defendant, and to proceed thereon to judgment and execution.

IV. That in all actions wherein it shall be intended to arrest and hold any person to special bail who may not be in custody of the keeper of the gaol of the said county, the process shall be by writ of capias according to the form contained in the said schedule and marked Number 4; and so many copies of such process, together with the memorandum or notice subscribed thereto, and all indorsements thereon as there may be persons intended to be arrested thereon or served therewith, shall be delivered therewith to the sheriff or other officer or person to whom the same may be directed, or who may have the execution and return thereof and who shall, upon or forthwith after the execution of such process, cause one such copy to be delivered to every person upon whom such process shall be executed by him, whether by service or arrest, and shall indorse on such writ the true day of the execution thereof, whether by service or arrest; and if any defendant be taken or charged in custody upon any such process, and imprisoned for want of sureties for his appearance thereto, the plaintiff in such process may, after the detainer or arrest of such defendant, declare against such defendant, and proceed thereon according to the practice of the said court, as against a defendant in custody on meane process; Provided always, that it shall be lawful for the plaintiff or his attorney to order the sheriff or other officer or person to whom such writ shall be directed to arrest one or more only of the defendants therein named, and to serve a copy thereof on one or more of the others, which order shall be duly obeyed by such sheriff or other officer or person; and such service shall be of the same force and effect as the service of the writ of summons herein-before mentioned, and no other.

V. That upon the return of non est inventus as to any defendant against whom such writ of capias shall have been issued, and also upon the return of non est inventus and nulla bona as to any defendant against whom such writ of distringas as herein-before mentioned shall have issued whether such writ of capias or distringas shall have issued against such defendant only, or against such defendant and any other person or persons, it shall be lawful, until otherwise provided for, to proceed to outlaw or waive such defendant by writs of exigi facias and proclamation, and otherwise, in such and the same manner as may now be lawfully done upon the return of non est inventus to a pluries writ of capias ad respondendum issued after an original writ: Provided always, that every such writ of exigent, proclamation, and other writ subsequent to the writ of capias or distringas shall be made returnable on a day certain in term; and every such first writ of exigent and proclamation shall bear teste on the day of the return of the writ of capias or distringas, and every subsequent writ of exigent and proclamation shall bear test on the day of the return of the next preceding writ; and no such writ of capias or distringas shall be sufficient for the purpose of outlawry or waiver if the same be returned within less than fifteen days after the delivery thereof to the sheriff or other officer to whom the same shall be directed.

VI. That after judgment given in any action commenced by writ of

No. I.

4 & 5 W. 4,
c. 62.

Bailable process for the commencement of personal actions.

Proceedings to outlawry.

Proceedings to outlawry may

No. I.
4 & 5 W. 4,
c. 62.

be had after judgment given under the authority of this act.

Mode of detaining a prisoner in gaol.

Duration of writs.

Proviso as to statute of limitations.

Proceedings on writs served or executed at certain times.

Proviso for Sunday, &c.

Indorsement on writs of the name, &c. of the attorney or party suing.

Service of writs of summons on corporations, and on inha-

summons or *capias*, under the authority of this act, proceedings to outlawry or waiver may be had and taken, and judgment of outlawry or waiver given, in such manner and in such cases as may now be lawfully done after judgment in an action commenced by original writ: Provided always, that every outlawry or waiver had under the authority of this act shall and may be vacated or set aside by writ of error or motion, in like manner as outlawry or waiver founded on an original writ may now be vacated or set aside.

VII. That when it shall be intended to detain in any such action any person being in the custody of the keeper of the goal for the said county of Lancaster, the process of detainer shall be according to the form of the writ of detainer contained in the said schedule and marked Number 5, and a copy of such process, and of all indorsements thereon, shall be delivered, together with such process, to the keeper of the said gaol, who shall forthwith serve such copy upon the defendant personally, or leave the same at his room, and the declaration thereupon shall and may allege the prisoner to be in custody in the said gaol; and the subsequent proceedings shall be as against prisoners in custody upon mesne process, according to the practice of the said court, unless otherwise ordered by some rule to be made by the judges of the said court.

VIII. That no writ issued as aforesaid by authority of this act shall be in force for more than four calendar months from the day of the date thereof, including the day of such date; but every writ of summons and *capias* may be continued by alias and pluries, as the case may require, if any defendant therein named may not have been arrested thereon or served therewith: Provided always, that no first writ shall be available to prevent the operation of any statute whereby the time for the commencement of the action may be limited unless the defendant shall be arrested thereon or served therewith, or proceedings to or towards outlawry shall be had thereupon, or unless such writ, and every writ (if any) issued in continuation of a preceding writ, shall be returned non est inventus, and entered of record within one calendar month next after the expiration thereof, including the day of such expiration, and unless every writ issued in continuation of a preceding writ shall be issued within one such calendar month after the expiration of the preceding writ, and shall contain a memorandum indorsed thereon or subscribed thereto, specifying the day of the date of the first writ, and return to be made, in bailable process by the sheriff or other officer to whom the writ shall be directed, or his successor in office, and, in process not bailable, by the plaintiff or his attorney suing out the same, as the case may be.

IX. That when any writ of summons, *capias*, or detainer issued by authority of this act shall be served or executed, all necessary proceedings to judgment and execution may be had thereon, without delay, at the expiration of eight days from the service or execution thereof: Provided always, that if the last of such eight day shall in any case happen to fall on a Sunday, Christmas-day, Good Friday, or any day appointed for a public fast or thanksgiving, in any of such cases the following day shall be considered as the last of such eight days.

X. That upon every writ to be issued as aforesaid by authority of this act the name or firm and the place of business or residence of the attorney or attorneys issuing such writ shall be indorsed thereon, and where such attorney or attorneys shall be agents only, then there shall be further indorsed thereon the name or firm and place of business or residence of the principal attorney or attorneys, but in case no attorney or attorneys shall be employed for that purpose, then a memorandum shall be indorsed thereon, expressing that the same has been sued out by the plaintiff in person, mentioning the city, town, or parish, and also the name of the hamlet, street, and number of the house of such plaintiff's residence, if any such there be.

XI. That every such writ of summons issued against a corporation aggregate may be served on the mayor or other head officer, or on the town clerk, clerk, treasurer, or secretary of such corporation; and every such writ issued against the inhabitants of a hundred or other like dis-

district may be served on the high constable thereof, or any one of the high constables thereof; and every such writ issued against the inhabitants of the county of Lancaster, or the inhabitants of any franchise, liberty, town, or place, not being part of a hundred or other like district, on some peace officer thereof.

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c. 62.

bitants of hundreds and towns.

XII. That all such proceedings as are mentioned in any writ, notice, or warning to be issued as aforesaid under this act shall and may be had and taken in default of a defendant's appearance or putting in special appearance, as the case may be, Proceedings in default of appearance.

XIII. That every attorney whose name shall be indorsed on any writ issued as aforesaid by authority of this act shall, on demand in writing made by or on behalf of any defendant, declare forthwith whether such writ has been issued by him, or with his authority or privity, and if he shall answer in the affirmative, then he shall also, in case the said court, or one of the judges thereof, shall by rule or order so order and direct, declare in writing, within a time to be allowed by such court or judge, the profession, occupation, or quality, and place of abode of the plaintiff, on pain of being guilty of a contempt of the said court; and if such attorney shall declare that the writ was not issued by him, or with his authority or privity, the said court, or any judge thereof, shall and may, if it shall appear reasonable so to do, make an order for the immediate discharge of any defendant or defendants who may have been arrested on any such writ, on entering a common appearance.

Attorney to declare whether writ issued by his authority and name, &c. of his client, if ordered; if writ not issued by authority of the attorney, defendant may be discharged.

XIV. Provided always, That nothing in this act contained shall subject any person to arrest, outlawry, or waiver, who, by reason of any privilege, usage, or otherwise, may now by law be exempt therefrom, or shall extend to any cause removed into the said court by writ of pone loquelam, accedas ad curiam, certiorari, recordari facias loquelam, habeas corpus, or otherwise.

Proviso for persons privileged from arrest.

XV. That from the time when this act shall commence and take effect the writs herein-before authorized shall be the only writs for the commencement of personal actions in the said court in the cases to which such writs are applicable.

As to writs for commencement of personal actions.

XVI. That it shall be lawful for the parties in any action depending or to be depending in the said court of common pleas at Lancaster, after issue joined by consent, and by order of one of the judges of the same court, to state the facts of the case in the form of a special case for the opinion of the said court, or of one of the superior courts of common law at Westminster, and to agree that a judgment shall be entered for the plaintiff or defendant by confession or of nolle prosequi, immediately after the decision of the case, or otherwise, as the court before which such case shall be heard may think fit, and judgment shall be entered accordingly.

Power to state a special case without proceeding to trial.

XVII. That it shall and may be lawful for the judges of the said court of common pleas at Lancaster for the time being, or any two of them, from time to time to make such orders, rules, and regulations for altering and regulating the mode of pleading in that court, and for altering the mode of entering and transcribing pleadings, judgments, and other proceedings in actions at law therein, and touching the voluntary admission, upon any application for that purpose at a reasonable time before the trial of any action of one party to the other, of all such written or printed documents, or copies of documents, as are intended to be offered in evidence on the said trial by the party requiring such admission, and touching the inspection thereof before such admission is made, and touching the costs which may be incurred by the proof of such documents or copies on the trial of the cause, in case of the omitting to apply for such admission, or the not producing of such documents or copies for the purpose of obtaining admission thereof, or of the refusal to make such admission, as the case may be, and as to the said judges of the said court for the time being, or any two of them, shall seem meet.

Judges may make rules for altering and regulating the mode of pleading and transcribing records, and touching the admission of documents.

XVIII. That all writs of inquiry of damages hereafter to be issued by the court of common pleas at Lancaster, under and by virtue of the sta-

Writs of inquiry under the

No. I.
4 & 5 W. 4,
c. 62.

statute 8 & 9
W. 3, c. 11, to
be executed be-
fore the sheriff,
unless other-
wise ordered.

Return of other
writs of inquiry.

Power to direct
issues joined
in certain ac-
tions to be tried
before the she-
riff or any
judge.

Upon the re-
turn of inquiry
or writ for trial
of issues, judg-
ment may be
signed, unless,
&c.

3 & 4 W. 4,
c. 42.

Judgment may
be vacated,
execution stay-
ed, and new
trial granted.

Defendant to
be allowed to
pay money into
court in certain
cases.

tute passed in the session of parliament held in the eighth and ninth years of the reign of king William the third, intituled *An Act for the better preventing frivolous and vexatious Suits*, shall, unless the said court, or one of the judges thereof, shall otherwise order, direct the sheriff of the said county of Lancaster, to summon a jury to appear before him, instead of the justices or justice of assize of and for the said county, to inquire of the truth of the breaches suggested, and assess the damages that the plaintiff shall have sustained thereby, and shall command the said sheriff to make return thereof to the said court on a day certain in such writ to be mentioned, and such proceedings shall be had after the return of such writ as are in the said statute in that behalf mentioned, in like manner as if such writ had been executed before a justice of assize or nisi prius.

XIX. That every other writ of inquiry to be issued by the said court of common pleas at Lancaster shall be made returnable on any day certain to be named in such writ.

XX. That in any action depending in the said court of common pleas at Lancaster for any debt or demand in which the sum sought to be recovered and indorsed on the writ of summons shall not exceed twenty pounds it shall be lawful for the said court or any judge thereof, if such court or judge shall be satisfied that the trial of the said action will not involve any difficult question either of law or fact, and such court or judge shall think fit so to do, to order and direct that the issue or issues joined shall be tried before the sheriff of the said county palatine of Lancaster, or any judge of any court of record for the recovery of debt in such county, and for that purpose a writ shall issue, directed to such sheriff or judge, commanding him to try such issue or issues by a jury to be summoned by him; and to return such writ, with the finding of the jury thereon indorsed, at a day certain to be named in such writ, and thereupon such sheriff or judge shall summon a jury, and shall proceed to try such issue or issues.

XXI. That at the return of every writ of inquiry, or writ for the trial of such issue or issues as aforesaid, costs shall be taxed, judgment signed, and execution issued forthwith, unless the sheriff or his deputy before whom such writ of inquiry may be executed, or such sheriff, deputy, or judge before whom such trial shall be had, shall certify, under his hand, upon such writ, that judgment ought not to be signed until the defendant shall have had an opportunity to apply to the said court of common pleas at Lancaster, or one of the judges thereof, for a new inquiry or trial, or the said court, or one of the judges thereof, shall think fit to order that judgment or execution shall be stayed till a day to be named in such order; and the verdict of such jury on the trial of such issue or issues shall be as valid and of the like force as a verdict of a jury at the assizes; and the sheriff or his deputy or judge presiding at the trial of such issue or issues shall have the like powers, with respect to the amendment on such trial, as are given to judges at nisi prius by an act passed in the third and fourth years of the reign of his present Majesty, intituled *An Act for the further Amendment of the Law, and the better advancement of Justice*.

XXII. Provided always, That notwithstanding any judgment signed or execution issued as aforesaid by virtue of this act, it shall be lawful for the said court of common pleas at Lancaster to order such judgment to be vacated and execution to be stayed or set aside, and to enter an arrest of judgment, or grant a new trial or new writ of inquiry, as justice may appear to require; and thereupon the party affected by such writ of execution shall be restored to all that he may have lost thereby in such manner as upon the reversal of a judgment by writ of error or otherwise, as the court may think fit to direct.

XXIII. That it shall be lawful for the defendant in all personal actions, except actions for assault and battery, false imprisonment, libel, slander, malicious arrest or prosecution, criminal conversation, or debauching of the plaintiff's daughter or servant, by leave of the said court of common pleas at Lancaster or one of the judges thereof, to pay

into court a sum of money by way of compensation or amends, in such manner, and under such regulations as to the payment of costs and the form of pleading, as the judges of the said court shall, by any rules or orders by them to be from time to time made, order and direct.

No. I.
4 & 5 W. 4,
c. 62.

XXIV. And whereas it would tend to further the administration of justice in the said court of common pleas at Lancaster if more of the judges of the superior courts at Westminster were appointed justices for all manner of pleas within the said county palatine of Lancaster; be it therefore enacted, That it shall and may be lawful to and for the king's most excellent Majesty, in right of his duchy and county palatine of Lancaster, from time to time to nominate and appoint all or any of the judges of the superior courts at Westminster to be judges of the court of common pleas for the county palatine of Lancaster: Provided nevertheless, that the judges before whom the assizes for the said county palatine of Lancaster shall from time to time be held, and their respective officers, shall alone be entitled to the fees and emoluments heretofore received by the judges of the said county palatine and their officers.

Power to appoint additional judges.

XXV. That the judges of the superior courts of common law at Westminster, or any eight or more of them, of whom the chief of each of the said courts shall be three, may, by any rule or order to be from time to time after this act shall take effect, make such regulations as to the fees to be charged by all and every or any of the officers of the said court of common pleas at Lancaster and the attornies thereof as to them may seem expedient, and to alter the same when and as it may seem fit and proper, so as such fees shall not exceed the fees now received; and all such regulations shall be binding and obligatory on the said court of common pleas at Lancaster, and all the officers and attornies of the said court.

Judges of superior courts at Westminster may regulate fees to be taken in court of common pleas at Lancaster.

XXVI. That it shall be lawful for any party in any action now depending or hereafter to be depending in the said court of common pleas at Lancaster to apply by motion to any one of the superior courts at Westminster sitting in Banco, within such period of time after the trial as motions of the like kind shall from time to time be permitted to be made in the said superior court, for a rule to show cause why a new trial shall not be granted or nonsuit set aside, and a new trial had or a verdict entered for the plaintiff or defendant, or a nonsuit entered, as the case may be, in such action, which court is hereby authorized and empowered to grant or refuse such rule, and afterwards to proceed to hear and determine the merits thereof, and to make such orders thereupon as the same court shall think proper; and in case such court shall order a new trial to be had in any such action the party or parties obtaining such order shall deliver the same, or an office copy thereof, to the prothonotary of the said court of common pleas at Lancaster, or his deputy, and thereupon all proceedings upon the former verdict or nonsuit shall cease; and the action shall proceed to trial at the next or some other subsequent session of assizes holden for the county of Lancaster, in like manner as if no trial had been had therein; or in case the court before which any such rule shall be heard shall order the same to be discharged, the party or parties obtaining any such order may, upon delivering the same or an office copy thereof to the said prothonotary, or his deputy, be at liberty to proceed in any such action as if no such rule nisi had been obtained; or if a verdict be ordered to be entered for the plaintiff or defendant, or a nonsuit be ordered to be entered, as the case may be, judgment shall be entered accordingly (1).

Rules for new trials to be moved before any of the courts at Westminster.

(1) The court of exchequer held, that it had no power under this clause to order judgment to be entered *non obstante veredicto* in a cause out of the court of common pleas at Lancaster; *Potter v. Moss*, 3 Dowl. P. C. 432.

And it has also been held that this section does not authorize the courts at Westminster to entertain a motion in a cause in the common pleas at Lancaster, to set aside an award made under an order of *nisi prius*, though a verdict was taken subject to the award.

All the fifteen judges have been appointed judges of that court; *Byrne (or Terns) v. Fitzhugh*, 1 C. M. & R. 597; 3 Dowl. P. C. 278.

No. I.

4 & 5 W. 4,
c. 62.

Judgment and execution not to be stayed, unless the party moving enter into recognizance with sureties.

Not to take away power of court to grant a new trial.

Service of subpoena on witnesses in any part of England and Wales shall be valid to compel appearance.

Expence of attendance on writs of subpoena shall be tendered to witnesses.

Where final judgment shall be obtained in the court, and the person or effects cannot be found within its jurisdiction, any of the superior courts at Westminster may issue execution, &c.

XXVII. Provided always, That the entering up of judgment in any action in the said court of common pleas at Lancaster, and the issuing of execution upon such judgment, shall not be stayed unless the party intending to apply for such rule as last aforesaid shall, with two sufficient sureties such as the last-mentioned court shall approve of, become bound unto the party for whom such verdict or nonsuit shall have been given or obtained, by recognizance, to be acknowledged in the same court, in such reasonable sum as the same court shall think fit, to make and prosecute such application as aforesaid, and also to satisfy and pay, if such application shall be refused, the debt, or damages and costs adjudged and to be adjudged in consequence of the said verdict or nonsuit, and all costs and damages to be awarded for the delaying of execution thereon.

XXVIII. Provided also, That nothing herein contained shall prevent the said court of common pleas at Lancaster from granting any new trial, or setting aside any nonsuit, or entering a nonsuit, or altering a verdict as heretofore.

XXIX. That the service of every writ of subpoena hereafter to be issued out of the said court of common pleas at Lancaster, and served upon any person in any part of England or Wales, shall be as valid and effectual in law, and shall entitle the party suing out the same to all and the like remedies, by action or otherwise howsoever, as if the same had been served within the jurisdiction of the said court of common pleas at Lancaster; and in case such person so served shall not appear according to the exigency of such writ, it shall be lawful for the same court or one of the judges thereof, upon oath or affirmation to be taken in open court, or upon an affidavit, of the personal service of such writ, to transmit a certificate of such default, under the hand of one of the judges of the same court, to the court of king's bench in England; and the said last-mentioned court shall and may thereupon proceed against and punish, by attachment or otherwise, according to the course and practice of the same court, the person so having made default, in such and the like manner as they might have done if such person had neglected or refused to appear in obedience to a writ of subpoena issued to compel the attendance of witnesses out of such last-mentioned court.

XXX. Provided always, That the said court of king's bench shall not in any case proceed against or punish any person, nor shall any such person be liable to any action, for having made default by not appearing to give evidence in obedience to any writ of subpoena or other process for that purpose issued under the authority of this act, unless it shall be made to appear to the court that a reasonable and sufficient sum of money to defray the expences of coming and attending to give evidence, and of returning from giving such evidence, had been tendered to such person at the time when such writ of subpoena was served upon such person.

XXXI. That whenever a plaintiff or defendant in any action or suit in which judgment shall be recovered in the said court of common pleas at Lancaster shall remove his person or goods or chattels from out of the jurisdiction of the said court of common pleas at Lancaster, it shall and may be lawful for any of the superior courts at Westminster, upon a certificate from the prothonotary of the said court of common pleas at Lancaster, or his deputy, of the amount of final judgment obtained in any such action, to issue a writ or writs of execution thereupon for the amount of such judgment, and the costs of such writ or writs and certificate, to the sheriff of any county, city, liberty, or place, against the person or persons or goods of the party or parties against whom such final judgment shall have been obtained, in such manner as upon judgments obtained in any of the said courts at Westminster (1).

(1) Where a defendant after judgment in an action in the common pleas at Lancaster, had removed his person out of the jurisdiction of the county palatine, the court of king's bench on an affidavit of these facts, without showing that he had also removed his goods, ordered a *capias ad satisfaciendum* to issue under this clause; *Lord v. Cross*, 4 Nev. & M. 30. But there must be an affidavit that the party has removed his person or his goods, before the court will allow a writ of execution to issue; *Duckworth and another, v. Fogg*, Excheq. Mich. T., 1835, MS.

XXXII. That in case any rule of the said court of common pleas at Lancaster cannot be enforced by reason of the non-residence of any party or parties within the jurisdiction thereof, it shall be lawful, upon a certificate of such rule by the prothonotary of the said court, and an affidavit that by reason of such non-residence such rule cannot be enforced as aforesaid, to make such rule a rule of any one of the said courts at Westminster, if such court shall think fit, whereupon such rule shall be enforced as a rule of such court.

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If rules of the court cannot be enforced, they may be made at Westminster.

rules of one of the superior courts at Westminster.

XXXIII. That all writs issued out of the said court of common pleas at Lancaster shall be tested in the name of the chief justice of that court, or, in case of a vacancy of such office, in the name of one of the other judges thereof; and that every writ of *venire facias juratores*, issued out of the same court, shall bear date on the day next preceding the first commission day of each assizes, unless such commission day shall be on a Monday, and then on the Saturday preceding; and that every writ of *habeas corpora juratorum* shall bear date on the day of the return of the *venire facias juratores*; and that all other writs, except writs of exigent and proclamation, shall respectively bear date on the day on which the same shall be issued; and that all writs of execution may, if the party suing out the same shall think fit, be made returnable immediately after the execution thereof.

Test and date of writs and returns of executions.

XXXIV. That whenever by any act of parliament, or by or under the authority of any act of parliament, or by any rule or order of any of his Majesty's superior courts at Westminster, or of any of the judges of the same, any rules, orders, or regulations shall be made for the purpose of framing, regulating, or amending the proceedings, practice, or pleadings of any of the said superior courts at Westminster, it shall be lawful for the judges of the said court of common pleas at Lancaster, or any two of them, by rule or order to be made in that behalf, to adopt, *mutatis mutandis*, all or any of such rules, orders, or regulations, or any part or parts thereof, as to the said last-mentioned judges shall seem fit.

Power to adopt rules to be made for the superior courts at Westminster.

XXXV. That the costs to be from time to time allowed for preparing pleadings in actions in the said court of common pleas at Lancaster shall be the same as shall be allowed for preparing pleadings of a like description in actions in the superior courts at Westminster.

Costs of preparing pleadings.

XXXVI. That this act shall commence and take effect on the first day of September one thousand eight hundred and thirty-four.

Commencement of act.

SCHEDULE to which this Act refers.

No. 1.

WRIT OF SUMMONS.

WILLIAM the Fourth, *et cetera*.

To C. D. of, *et cetera*, in the county of Lancaster, greeting:

We command you [or as before, or often we have commanded you], that within eight days after the service of this writ on you, inclusive of the day of such service, you do cause an appearance to be entered for you in our court of common pleas at Lancaster, in an action on promises [or as the case may be] at the suit of A. B.; and take notice, that in default of your so doing the said A. B. may cause an appearance to be entered for you, and proceed therein to judgment and execution.

Witness _____ at Lancaster, the
day of _____ in the _____ year of our reign.

Memorandum to be subscribed on the Writ.

N. B.—This writ is to be served within four calendar months from the date thereof, including the day of such date, and not afterwards.

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c. 62.

Indorsement to be made on the Writ before Service thereof.

This writ was issued by *E. F.* of attorney for the plaintiff or plaintiffs within named.

or,
This writ was issued by of agent for *G. H.* of attorney for the plaintiff or plaintiffs within named.

or,
This writ was issued in person by the plaintiff or plaintiffs within named who resides or reside at [mention the city, town, or parish, and also the name of the hamlet, street, and number of the house of the plaintiff's residence, if any such.]

Indorsement to be made on the Writ after Service thereof.

This writ was served by me *X. Y.* on on the day of one thousand eight hundred and

X. Y.

No. 2.

FORMS OF ENTERING AN APPEARANCE.

A. B. Plaintiff against *C. D.* } The defendant *C. D.* appears in person,
or } *E. F.*, attorney for *C. D.*, appears for him.
against *C. D.* and another, } *G. H.*, attorney for the plaintiff, appears
or } for the defendant *C. D.* according to the
against *C. D.* and others. } statute.
Entered the day of one
thousand eight hundred and

No. 3.

WRIT OF DISTINGAS.

WILLIAM the Fourth, *et cetera.*

To the sheriff of Lancashire, greeting :

We command you, that you omit not by reason of any liberty in your bailiwick, but that you enter the same and distrain upon the goods and chattels of *C. D.* for the sum of forty shillings, in order to compel his appearance in our court of common pleas at Lancaster, to answer *A. B.* in a plea of trespass on the case [*or debt, as the case may be*]; and how you shall execute this our writ you make known to our justices at Lancaster on the day of now next ensuing.

Witness at Lancaster, the
day of in the year of our reign.

Notice to be subscribed to the foregoing Writ.

In the court of common pleas at Lancaster :

Between *A. B.* Plaintiff,
and
C. D. Defendant.

Mr. C. D.

Take notice, that I have this day distrained upon your goods and chattels in the sum of forty shillings, in consequence of your not having appeared in the said court to answer to the said *A. B.*, according to the exigency of a writ of summons bearing teste on the day of and that in default of your appearance to the present writ within eight days inclusive after the return hereof, the

said A. B. will cause an appearance to be entered for you, and proceed thereon to judgment and execution; or (if the defendant be subject to outlawry) will cause proceedings to be taken to outlaw you.

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No. 4.

WRIT OF CAPIAS.

WILLIAM the fourth, *et cetera.*

To the sheriff of Lancashire,

or

To the coroners of the county of Lancaster,

or

[as the case may be], greeting:

We command you [or as before, or often we have commanded you], that you omit not by reason of any liberty in your bailiwick, but that you enter the same and take C. D. of if he shall be found in your bailiwick, and him safely keep until he shall have given you bail, or made deposit with you, according to law, in an action on promises [or of debt, *et cetera*,] at the suit of A. B., or until the said C. D. shall by other lawful means be discharged from your custody: And we do further command you, that on execution hereof you do deliver a copy hereof to the said C. D.: And we do hereby require the said C. D. to take notice, that within eight days after execution hereof on him, inclusive of the day of such execution, he should cause special bail to be put in for him in our court of common pleas at Lancaster to the said action, and that in default of his so doing such proceedings may be had and taken as are mentioned in the warning hereunder written or indorsed hereon: And we do further command you the said sheriff [or coroners, or as the case may be], that immediately after the execution hereof you do return this writ to our said court, together with the manner in which you shall have executed the same, and the day of the execution hereof; or that if the same shall remain unexecuted, then that you do so return the same at the expiration of four calendar months from the date hereof, or sooner, if you shall be thereto required by order of the said court or by any judge thereof.

Witness at Lancaster, the
day of in the year of our reign.

Memoranda to be subscribed to the Writ.

N. B.—This writ is to be executed within four calendar months from the date thereof, including the day of such date, and not afterwards.

A Warning to the Defendant.

1. If a defendant being in custody shall be detained on this writ, or if a defendant being arrested thereon shall go to prison for want of bail, the plaintiff may declare against any such defendant on or before the third commission day of the assizes (exclusive of a Sunday) next after such detainer or arrest, and proceed thereon to judgment and execution.

2. If a defendant being arrested on this writ shall have made a deposit of money, according to the statute seventh and eighth of George the fourth, chapter seventy-one, and shall omit to enter a common appearance to the action, the plaintiff will be at liberty to enter a common appearance for the defendant, and proceed thereon to judgment and execution.

3. If a defendant having given bail on the arrest shall omit to put in special bail, as required, the plaintiff may proceed against the sheriff, or on the bail bond.

4. If a defendant, having been served only with this writ, and not

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arrested thereon, shall not enter a common appearance within eight days after such service, the plaintiff may enter a common appearance for such defendant, and proceed thereon to judgment and execution.

Indorsements to be made on the Writ of Capias.

Bail for _____ pounds by affidavit ;

or,

Bail for _____ pounds by order of [naming the judge making the order]. Dated the _____ day of _____

This writ was issued by G. H. of _____ attorney for the plaintiff [or plaintiffs] within named.

or,

This writ was issued by _____ of _____ agent for E. F. at _____ attorney for the plaintiff [or plaintiffs] within named.

or,

This writ was issued in person by the plaintiff or plaintiffs within named, who resides or reside at _____ [mention the city, town, or parish, and also the name of the hamlet, street, and number of the house of the plaintiff's residence, if any such there be.]

No. 5.

WRIT OF DETAINER.

WILLIAM the Fourth, *et cetera*.

To the sheriff of Lancashire, greeting :

WE command you, that you detain C. D. if he shall be found in your custody at the delivery hereof to you, and him safely keep in an action on promises [or of debt, *et cetera*, as the case may be,] at the suit of A. B. until he shall be lawfully discharged from your custody : And we do further command you, that on receipt hereof you do warn the said C. D. by serving a copy hereof on him, that within eight days after service of such copy, inclusive of the day of such service, he do cause special bail to be put in for him, in our court of common pleas at Lancaster, to the said action ; and that in default of his so doing the said A. B. may declare against him on or before the third commission day of the assizes (exclusive of Sunday) next after his detainer, and proceed thereon to judgment and execution : And we do further command you the said sheriff, that immediately after the service hereof you do return this our writ, or a copy hereof, to our said court, together with the day of the service hereof.

Witness _____ at Lancaster, the _____ day of _____ in the _____ year of our reign.

N. B.—This writ is to be indorsed in the same manner as the writ of capias, but not to contain the warning on that writ.

[For the 5 & 6 W. 4, c. 82, s. 7, giving compensation to lords of liberties and others for the loss of fines consequent upon the abolition of fines and recoveries, see *ante*, Part IV., Class I.]

PART IV.

CLASS XVI.

INFERIOR COURTS.

[No. I.] 3 & 4 W. IV. c. 22.—An Act to amend the Laws relating to Sewers. [28th June 1833.]

WHEREAS an act was passed in the twenty-third year of the reign of 23 H. 8, c. 5.

his Majesty king Henry the eighth, concerning commissions of sewers to be directed into all parts within the then realm of England, including the principality of Wales, in the manner and according to the form, tenor, and effect in the said act set forth, and which said act was made perpetual by an act passed in the third and fourth years of the reign of his Majesty king Edward the sixth, intituled *An Act for the Continuance of the Statute of Sewers*, and was amended and altered by an c. 8.

act passed in the thirteenth year of the reign of her Majesty queen Eli- 13 Eliz. c. 9.

sabeth, intituled *An Act for the Commission of Sewers*: And whereas

great difficulty, inconvenience, and expence are found to arise by reason

that the laws relating to sewers are in many respects defective: And

whereas doubts have arisen as to the extent of the powers given to the

commissioners of sewers by the said recited acts and the commissions

issued in pursuance thereof, and particularly as to the legal mode of

conducting inquiries by means of juries impanelled and returned by

sheriffs, bailiffs, and other returning officers under the authority of the

said recited acts, and also as to the legal power of courts of sewers to

decree and order new works to be made and executed for the better de-

fending, draining, sewing, and securing the lands within the limits of

their respective commissions, and to grant, impose, and levy rates, taxes,

scots, or assessments for or in respect of such new works, and to decree

and order the taking up and borrowing of money at interest to repay the

costs and charges of such new or any extraordinary or other works, so

as to charge and recover of and from the owners and occupiers for the

time being of lands, tenements, and hereditaments the amount of money

so borrowed or any part thereof, and thereby to distribute such costs

and charges fairly and equitably among the parties who shall or may

from time to time receive benefit or avoid damage by or from the same:

And whereas it is expedient to increase the amount of qualification of

commissioners of sewers, and that other provisions should be made for

the better execution of the powers by law vested or to be vested in com-
missioners of sewers: May it therefore please your Majesty that it may
be enacted; and be it enacted, &c., That no person who has not already
acted as a commissioner under any commission of sewers already issued
shall be qualified or capable of becoming or acting as a commissioner in
the execution of any commission of sewers unless such person shall be,
in his own right or in right of his wife, in the actual possession or
receipt for life or for a larger estate of the rents and profits of lands,
tenements, or hereditaments, situated in the county in which he shall
act as a commissioner, or in any adjoining county, of freehold or copy-
hold tenure, or held for a term of not less than sixty years absolute, or
determinable with a life or lives, of the clear yearly value of one hun-
dred pounds above reprises, or held for a term of years originally
granted for not less than twenty-one years, and of which ten years at the
least shall then be unexpired, of the clear yearly value of two hundred
pounds above reprises, or shall be heir apparent of a person possessed
of freehold or copyhold lands, tenements, or hereditaments, situated in
such county as aforesaid, or in any adjoining county, of the clear yearly
value of two hundred pounds above reprises, or unless such person

Qualification
of commis-
sioners.

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shall be the agent duly appointed by writing under the seal of any body politic or corporate, or under the hand of any person not being himself present, and acting as a commissioner in the execution of the commission of sewers under or by virtue of which such agent shall act, and which body politic or corporate shall for the time being be in the receipt of the rents and profits of freehold or copyhold lands, tenements, or hereditaments situated in such county as aforesaid, or in any adjoining county, and which person making such appointment shall for the time being be, in his own right or in right of his wife, in the actual possession or receipt of the rents and profits of freehold or copyhold lands, tenements, or hereditaments, situated in such county as aforesaid, or any adjoining county, and which lands, tenements, or hereditaments, whether so belonging to such body politic or corporate, or to such other person, shall be actually taxed under or by virtue of the commission of sewers in respect whereof such agent shall act, and shall be of the clear yearly value of three hundred pounds above reprises, or unless such agent shall, before he acts, deliver his written appointment to the clerk to such commission of sewers, or his deputy, to be filed by such clerk among the records or proceedings of the commissioners acting in the execution of such commission: Provided always, That in cases where commissions of sewers run into more than one county, the qualification herein-before provided may be situated either partly in each of the counties into which such commission shall run, or wholly in any one of such counties: Provided that nothing in this act contained shall extend to give a qualification to any person as agent after he shall have ceased to be such agent.

Quakers may
act as commis-
sioners, upon
making an
affirmation.

II. That if any person being a Quaker shall have been or shall hereafter be appointed a commissioner of sewers, and shall be in other respects qualified according to the provisions of the said recited acts and of this act, it shall be lawful for such person, on making his solemn affirmation to the effect of the oath prescribed by the said recited act of the twenty-third year of the reign of king Henry the eighth, before the person or persons who for the time being shall be empowered by law to administer such oath, and also upon his making and subscribing the affirmation directed by this act, to act as a commissioner of sewers, without being subject or liable to any penalty or forfeiture imposed by the said last recited act for acting without having taken the oath therein contained.

Oath to be
taken by other
commissioners
before acting.

III. That every such commissioner before he shall act in the execution of his office shall, in addition to the oath prescribed by the said recited act of the twenty-third year of the reign of king Henry the eighth, (or the affirmation in lieu thereof substituted by this act in respect of any commissioner who shall be a Quaker,) take and subscribe before the person or persons who for the time being shall be authorized to administer the oath prescribed by the said last-mentioned act the following oath, or, being a Quaker, the following affirmation; *videlicet*,

‘ I do swear, [*or, being one of the people called Quakers, do solemnly affirm.*] That I truly and *bonâ fide* am in my own right [*or in the right of my wife*] in the actual possession and enjoyment of [*or in the receipt for life, or for a larger estate, of the rents and profits issuing out of*] lands, tenements, or hereditaments, situate in the county of _____ of freehold or copyhold tenure, *or held for a term of not less than sixty years absolute, or determinable with a life or lives, of the clear yearly value of one hundred pounds above reprises; or held for the unexpired term of _____ years, originally granted for _____ years, of the clear yearly value of two hundred pounds above reprises; [or am heir apparent of _____ who, to the best of my knowledge, is seised of freehold or copyhold lands, tenements, or hereditaments, situate in the county of _____ of the clear yearly value of two hundred pounds above reprises]; [or am agent of _____, who, [or which,] to the best of my knowledge, is seised or possessed in his or their own right] [or in the right*

' of his wife] of freehold or copyhold lands, tenements, or hereditaments,
 ' situate in the county of _____, of the clear yearly value of three
 ' hundred pounds above reprises. 'So help me GOD.'
 [Or, being a Quaker, omit the Words, 'So help me God.']

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IV. That if any person who has not already acted as a commissioner of sewers shall presume to act as a commissioner of sewers, not being qualified as aforesaid, or who shall have ceased to be qualified as aforesaid, or not having taken the oath, or, being a Quaker, made the solemn affirmation prescribed by this act, every person willfully so offending shall for every such offence forfeit and pay the sum of one hundred pounds to any person or persons who shall sue for the same, to be recovered, with full costs of suits, in any of his Majesty's courts of record at Westminster, by action of debt or on the case, or by bill, plaint, suit, or information, wherein no essoin, protection, wager of law, or more than one imparlance, shall be allowed; and the person so sued or prosecuted shall prove that he is qualified, or otherwise shall pay the said penalty, without any other proof or evidence on the part of the prosecutor than that such person had acted as a commissioner in the execution of any commission of sewers: Provided nevertheless, that no act or proceeding touching the execution of any commission of sewers which shall be done or performed by any unqualified person previously to his being convicted of the offence of acting without being qualified as herein provided shall be thereby impeached or rendered nugatory, but all such acts and proceedings shall be as valid and effectual as if such person had been duly qualified. Penalty on persons acting not qualified.

Proceedings not to be impeached on account of disqualification.

V. Provided always, That any mayor, bailiff, or other officer appointed or authorized to act as a commissioner under any commission of sewers by virtue of his office shall and may, so long as he shall hold such office, act as a commissioner in the execution of such commission of sewers by virtue of such office, without being qualified as herein-before directed with regard to commissioners of sewers in general, and without being required to take and subscribe the oath or affirmation herein-before prescribed to be taken by commissioners of sewers in general with regard to their qualification, and without being liable to the forfeiture or penalty herein-before imposed upon commissioners of sewers in general for acting without being qualified as aforesaid, or without having taken such oath or affirmation, any thing herein-before contained to the contrary thereof in any-wise notwithstanding: Provided also, that such mayor, bailiff, or other officer shall, before he acts, deliver a certificate, under the hand of the town clerk or other legal officer of the corporation in respect of which such mayor, bailiff, or other officer shall or may act, to the clerk to the commission under which he shall so act as aforesaid, certifying that he is the mayor, bailiff, or other officer authorized to act as a commissioner under such commission. Ex officio commissioners not required to qualify.

VI. That from and after the passing of this act all and every commission and commissions of sewers then being in force, or that hereafter shall be granted and made, shall stand and continue in force for the term of ten years next ensuing the date of every such commission, notwithstanding any demise of the crown of these realms during the existence of any such commission or commissions, unless the same commission or commissions be or thereafter shall be repealed or determined by reason of any new commission in that behalf made, or by writ of super-sedas delivered out of the king's court of chancery, discharging any such commission or commissions. Commission to continue for ten years, unless renewed or repealed by writ of super-sedas.

VII. That all laws, acts, decrees, constitutions, and ordinances made or to be made by any court of sewers, and duly registered in the rolls or books of such court by the clerk to the commission, shall continue in full force and effect, notwithstanding the expiration, repeal, or other determination of the commission under which such laws, acts, decrees, constitutions, and ordinances shall have been respectively made, and notwithstanding the same respectively shall not have been ingrossed or not written in parchment, and under the seals of the commissioners or any ingrossed in Laws, decrees, and ordinances to continue in force notwithstanding expiration of commission, and although not ingrossed in

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parchment, or
not certified
into the court
of chancery.

Regulations as
to meetings of
commissioners.

Special meet-
ings on emer-
gencies may be
called on ten
days' notice.

On certain oc-
casions special
meetings may
be called by
order of two
commissioners
on a shorter
notice.

six of them, and notwithstanding the one part thereof shall not remain with the clerk to the commission, and the other part in such place as the said commissioners or six of them shall order or appoint, and notwithstanding the same shall not be certified into the king's court of chancery, and the king's royal assent had thereto respectively, until the same laws, acts, decrees, constitutions, and ordinances shall be altered, repealed, or made void by any subsequent court or courts of sewers in those parts or limits where the same laws, decrees, and ordinances were or shall be made and ordained, or by any six of them.

VIII. That it shall be lawful for the said commissioners or any three or more of them, or for their clerk upon the direction in writing of any three or more of the said commissioners, (and which he is hereby required to do on such direction,) to appoint the first meeting of the said commissioners after the passing of this act at such time and place as to them shall seem meet, and of which meeting ten clear days previous notice shall be given, by advertisement in some newspaper of the county, and generally circulated in that district thereof, and it shall be lawful for the said commissioners from time to time to meet at such time and place, and to adjourn to meet at any place or places and at such time or times as the said commissioners or the major part of them present at any meeting shall appoint; and no order or determination shall be made unless the major part of the commissioners present shall concur therein; and all acts, orders, and proceedings which are directed or authorized to be made, done, or exercised by or before the said commissioners, and all the powers and authorities vested in them, shall and may be made, done and exercised by the major part of the commissioners who shall be present at the said respective meetings, the whole number present not being less than six; and all acts, orders, or proceedings made, done, or executed by or before such six commissioners shall have the same force and effect and be as binding and conclusive on all persons, to all intents and purposes whatsoever, as fully and effectually as if the same were made, done, or executed by or before the whole of the said commissioners; and a chairman shall and may in the first place be appointed at every meeting by a majority of the votes of the persons present, who in case of an equal number of votes (including the chairman's vote) shall have the casting or decisive vote.

IX. That if after any adjournment of any meeting of the said commissioners it shall on any emergency be considered necessary or advisable that a special meeting should be appointed for an earlier day than the day for which any meeting shall stand by adjournment as aforesaid, then and in such case it shall be lawful for the said commissioners or any three or more of them, or for their clerk upon the direction in writing of any three or more of the said commissioners (and which he is hereby required to do on such direction), to appoint a special meeting for an earlier day, and of which meeting, and of the time and purpose thereof, ten clear days' previous notice shall be given by advertisement in some newspaper of the county, and generally circulated in that district thereof; and no other business shall be transacted on any such special meeting but that which shall have been specified in such notice as aforesaid: Provided nevertheless, that in the event of any imminent danger being apprehended from unusually high tides or any other cause, and that in the judgment of two or more of the said commissioners the exigency of the case will not admit of the delay of ten clear days' previous notice of a special meeting, it shall and may be lawful for any two or more of the said commissioners, or for their clerk upon the direction in writing of any two or more of the said commissioners (and which he is hereby required to do on such direction), to convene, by circular letter sent to each acting commissioner, a special meeting for as early a day as the said two or more commissioners shall think fit in their discretion to appoint, such letters to specify the particular object for which such meeting is convened; and no business shall be transacted thereat but that which strictly relates to such object.

X. And whereas doubts have arisen as to the extent of the jurisdiction of commissioners of sewers; be it therefore further enacted and declared, That all walls, banks, culverts, and other defences whatsoever, whether natural or artificial, situate or being by the coasts of the sea, and all rivers, streams, sewers, and watercourses which now are or hereafter shall or may be navigable, or in which the tide now does or hereafter shall or may ebb and flow, or which now do or hereafter shall or may directly or indirectly communicate with any such navigable or tide river, stream, or sewer, and all walls, banks, culverts, bridges, dams, floodgates, and other works erected or to be erected in, upon, over, or adjoining to any such rivers, streams, sewers, or watercourses, shall be from henceforth, to all intents, constructions, and purposes, within and subject to the jurisdiction of commissioners of sewers: Provided always, That nothing herein contained shall authorize or empower any commissioners of sewers to exercise authority or jurisdiction upon or over any dams, floodgates, or other works erected for the purpose of ornament, previous to the passing of this act, in, upon, or over any rivers, streams, ditches, gutters, sewers, or watercourses near or contiguous to any house or building, or in any garden, yard, paddock, park, planted walk, or avenue to a house, without the consent in writing of the owner or proprietor thereof respectively first had and obtained.

XI. That in all cases in which any court of sewers shall inquire by jury of or concerning all or any of the matters and things authorized and directed to be inquired into and presented under and by virtue of the said recited acts, and the laws of sewers of old time accustomed, or of this act, it shall and may be lawful for commissioners of sewers, or any six or more of them, to issue a warrant or precept under their hands and seals to the sheriff, bailiff, or other returning officer or officers of every county at large, cinque port, city, town, liberty, precinct, or place within the limits of such commission, commanding such sheriff, bailiff, or other returning officer or officers to impanel, summon, and return, and he and they is and are hereby required, on receiving such warrant or precept, to impanel, summon, and return, at such time and place as in such warrant or precept shall be expressed, a jury of not exceeding forty-eight nor less than eighteen substantial and indifferent persons within his or their respective jurisdiction, qualified and usually summoned to serve on grand juries in courts of sessions of the peace; and the persons so to be impanelled, summoned, and returned as aforesaid are hereby required to appear before the said commissioners at such court of sewers to be holden within and for the limits of any and every such commission of sewers, or at some adjournment thereof, as in such warrant or precept shall be directed, and to attend such court, and at any and every adjournment thereof, until discharged by the said court; and the said jury shall be sworn in open court before the commissioners, and shall be charged by them to take their inquisition, and to make and return their presentments of and concerning all matters and things authorized and directed to be inquired into and presented under and by virtue of the said recited acts, and the law of sewers of old time accustomed, and of this act; and the said jury, being so impanelled, sworn, and charged as aforesaid, shall proceed in their inquiry before and in the presence of the court, upon the evidence of one or more credible witness or witnesses, delivered upon oath or affirmation, in the same manner and form, and subject to the like rules of taking and receiving evidence, as is usual in his Majesty's courts of common law; and the said commissioners may cause to be summoned to appear before them at the time and place of holding their respect courts of sewers aforesaid, and at every adjournment of any court, all clerks, keepers, bailiffs, engineers, surveyors, collectors, expeditors, and other their ministers and officers of sewers, and such other persons as in the judgment of such commissioners shall be competent to give proper evidence and information to the court and jury in the premises; and notice of the time and place of taking such inquisition shall be given by affixing to the principal door of each and every

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sewers and
other works
under the ju-
risdiction of
commissioners
of sewers.

Inquiry and
presentment by
jury.

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In certain cases of difference a jury to be impanelled which shall be composed, half from the county at large and half from the minor jurisdiction.

of the churches and chapels in the several parishes, townships, or places in which the rivers, streams, ditches, sewers, watercourses, walls, banks, culverts, and other works, lands, tenements, and hereditaments, common of pasture and profit of fishing, and other matters and things to be inquired into or that may be affected thereby, shall lie, be, or arise, or if there be no church, then to some conspicuous place within such parish, township, or place, a printed or written paper specifying such time and place of meeting, and signed by the clerk to the court before whom such inquisition is to be taken, at least seven days before the taking of such inquisition, and also by inserting, at least seven days before the taking thereof, such notice once at the least in one or more of the newspapers published or circulated in or near to the limits of the commission of sewers under authority whereof such inquisition shall be taken.

XII. And forasmuch as there are in many counties at large cities and towns being counties of themselves, cinque ports, hundreds, liberties, and precincts, having jurisdiction exclusive of the sheriffs, bailiffs, or other returning officers of such counties at large; and it may happen that in the inquiries and presentments of and concerning any matters and things affecting or relating to lands or tenements lying partly in such county at large, and partly in such minor jurisdiction, authorized and directed to be inquired into and presented under or by virtue of the said recited acts, and the law of sewers of old time accustomed, and of this act, the jury returned by the sheriff or other returning officer of such county at large, and the jury returned by the sheriff or other returning officer of such minor jurisdiction, may come to opposite or different conclusions, or make opposite or different presentments of or concerning such matters and things as aforesaid, and in such case the powers of the court of sewers may thereby become ineffectual or difficult to be carried into effect; be it therefore enacted, That in any case in which a jury returned by the sheriff or other returning officer of a county at large, and the jury returned by the sheriff, or other returning officer of any such minor jurisdiction, shall in the judgment of the said court, come to opposite or different conclusions, or make opposite or different presentments of or concerning any matters or things affecting or relating to any lands or tenements lying partly in such county at large and partly in any such city or town and county of the same, cinque port, hundred, liberty, or precinct within such county at large, it shall and may be lawful for such court of sewers thereupon, or at any time thereafter, to issue a warrant or precept, as well as to sheriff, bailiff, or other returning officer of such county at large, as to the sheriff, bailiff, or other returning officer of such city or town and county of the same, cinque port, hundred, liberty, or precinct, commanding them respectively to impanel, summon, and return, and he and they is and are hereby required, on receiving such respective warrant or precept, to impanel, summon, and return, at such time and place (although out of the jurisdiction of such respective sheriff, bailiff, or other returning officer,) as in such warrant or precept shall be expressed, a sufficient number, not exceeding eighteen nor less than nine substantial and indifferent persons within his jurisdiction, and not having composed part of the juries respectively which shall have previously differed in respect of the matters or things aforesaid, and out of each panel so to be returned the names of nine persons shall be drawn by the clerk of such court of sewers or his deputy in such manner as juries for trials or issues joined in his Majesty's courts of record at Westminster are by law directed to be drawn; and the said eighteen jurymen shall thereupon be sworn and charged to take their inquisition and to make and return their presentment of and concerning the aforesaid matters and things, and which presentment so taken and made shall be as conclusive in all respects as if the same matters and things had been inquired of as to lands or tenements lying within such county at large by a separate jury of such county at large, and as to lands or tenements lying within such city or town and county of the same, cinque port, hundred, liberty, or precinct, by a separate jury thereof.

XIII. And whereas doubts have arisen whether a presentment of a jury is not necessary on each and every occasion to repair defences and works within the jurisdiction of commissioners of sewers; be it therefore enacted, That whenever, under any commission now in force or which shall hereafter issue, a jury shall have found and presented that any person, body politic or corporate, is or are liable to and ought to maintain and repair or contribute to the maintenance and repair of any defence, wall, bank, sewer, or other work within the jurisdiction of the commission of sewers acting under or by virtue of such commission, in respect of any lands, tenements, or hereditaments, or common of pasture, or profit of fishing, it shall not afterwards, during the continuance of such commission, be necessary to inquire by jury and obtain a presentment upon any subsequent wants of amendment and reparation of the same defences, walls, banks, sewers, or works, or any of them, but such person, body politic or corporate, so presented as aforesaid, and the owners and occupiers for the time being of such lands, tenements, or hereditaments, or common of pasture, or profit of fishing, shall be liable from time to time to maintain and repair or contribute to the maintenance and repair of such defences, walls, banks, sewers, and other works, according to such presentment; and it shall and may be lawful for the commissioners of sewers to decree, order, and direct the same to be maintained and repaired by such person, body politic or corporate, from time to time during the continuance of such commission accordingly.

XIV. That it shall be lawful for the said commissioners to make separate and distinct rates, as occasion shall require, for every separate and distinct level, valley, or district, or any part of such level, valley, or district, within their respective commissions, and to fix and specify the limits of every such level, valley, or district, or of any such part of a level, valley, or district and to appoint surveyors, collectors, treasurers, expeditors, and other officers for every such level, valley, or district, or any part thereof respectively, whenever the said commissioners shall think fit so to do, and to cause separate and distinct accounts to be kept of all monies collected and received by virtue of any rate or rates which shall be made, under the authority of the said recited acts relating to sewers, or of this act, upon any lands or hereditaments within any such level, valley, or district, or any part thereof respectively, and of all payments and disbursements in respect thereof; and the said commissioners are hereby also authorized to apply the monies to be collected and received from each distinct level, valley, or district, or any part thereof respectively, by virtue of any such rate or rates as aforesaid, to and for the several purposes to which the same may be lawfully applied under the authority of the said recited acts or of this act, but so nevertheless that each level, valley, or district, and every part of such level, valley, or district, shall bear its own costs, charges, and expences; and in case any such costs, charges, and expences shall apply to or be incurred in respect of two or more levels, valleys, or districts, or parts thereof respectively, the same shall be apportioned and divided between such levels, valleys, and districts, or such parts thereof respectively, in such manner as the said commissioners shall adjudge to be fair and equitable.

XV. Provided always, That nothing in this act contained shall extend or be construed to extend to release or discharge any person, body politic or corporate, from any liability to which such person, body politic or corporate, was or were before the passing of this act subject by reason of tenure, frontage, prescription, custom, covenant, or grant; but in case any such person, body politic or corporate, shall not keep in good and proper repair any walls, banks, sewers, guts, gotes, calcies, tunnels, culverts, sluices, floodgates, tumbling bays, cuts, and other works, aids, and defences to which he, she, or they may be liable by reason of any such tenure, frontage, prescription, covenant, or grant, and shall not, after having had seven days' notice from the surveyor

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A presentment of a jury not to be necessary upon each occasion to repair.

Rates to be made for every distinct level or district.

Nothing herein to discharge persons from liability by tenure, &c.

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Certain persons
to be paid for
expences and
loss of time in
executing com-
missions of
sewers.

dikereeve, or other officer to be appointed by the court of sewers for that purpose, proceed to put the same into good and proper repair with all reasonable and proper dispatch, then and in that case it shall be lawful for such such surveyor, dikereeve, or officer to put the same into good and sufficient repair; and the expences to be incurred thereby shall be paid by the person, body politic or corporate, liable to such repair as aforesaid.

XVI That any court shall and may, at its discretion, by and out of the taxes, rates, and scots to be raised under and by virtue of the said recited acts and this act, or any or either of them, decree, order and appoint, pay and allow, to clerks and other persons employed by the court, and also to witnesses attending to give evidence before the said court, either in support of any presentment or order of the court, or in opposition to such presentment or order, such recompence, sum and sums of money, from time to time, for their several expences and loss of time, as to the said court shall seem just, and also all such costs, charges, and expences as shall be incurred in surveying, measuring, planning, and valuing the lands and hereditaments, or otherwise preparatory to or in or about the making, collecting, and expending such taxes, rates, or scots as aforesaid, or the hearing of objections to such taxes, rates, or scots, or in or about the carrying on of any litigation or controversy arising out of the duties imposed on the courts of sewers by virtue of the recited acts or of this act, and for the payment of all other necessary allowances, charges, and expences of putting the recited acts and this act into execution, and the contingent expences of working the said commissions of sewers respectively.

Nothing in this
act to preclude
any court of sewers
from causing
inquiry and
presentment by
jury as before.

XVII. Provided always, That nothing herein contained shall prevent any court of sewers, from time to time and at any time during the continuance of the commission of sewers, from causing inquiry and presentments to be made by jury of and concerning the aforesaid matter and things, or any other matter, cause, or thing to be inquired into and presented upon, by the ways and means herein-before provided, or by such other ways and means as they were authorized by ancient custom and usage or otherwise to do before the passing of this act, or to abridge or invalidate any powers or authorities usually heretofore exercised by any commissioners of sewers in their respective limits not herein expressly abrogated or altered.

Rates to be ap-
portioned be-
tween outgoing
and incoming
tenants.

XVIII. And whereas persons frequently remove from and give up the possession of lands, tenements, and hereditaments, before deriving the full benefit of the outlay of the last scot or rate assessed or imposed upon them in respect thereof under or by virtue of the law of sewers, and it is just and reasonable that the persons who succeed them in the possession thereof should be subject to a proportion of such rate; be it therefore enacted, That where any person shall come into or occupy any lands, tenements, or hereditaments out of or from which any other person assessed as aforesaid shall be removed, and also when any lands, tenements, or hereditaments shall at the time of making such scot or rate be empty or unoccupied, then every person so rated or assessed and removing from, and every person so coming into or occupying the same, shall be liable to pay such scot or rate in proportion to the time that such persons respectively occupied the same lands, tenements, or hereditaments, in the same manner, and under the like penalty of distress, as if such person so removing had not removed, or such person so coming in or occupying had been originally rated and assessed in such scot or rate; and which said proportion, in case of dispute between the parties, shall be ascertained and settled by any court of sewers: Provided always, That no outgoing tenant shall be entitled to have or claim any larger amount of rate than shall have been actually paid by him, and not repaid by his landlord.

Commissioners
authorized to
make and main-
tain new works.

XIX. That it shall and may be lawful for any court of sewers to decree and ordain any new walls, banks, sewers, guts, gotes, calcies, bridges, tunnels, culverts, sluices, floodgates, tumbling bays, cuts, or other works,

aids, and defences, or any alteration in the gauge, dimension, course, direction, or situation of any old or existing walls, banks, rivers, sewers, guts, gotes, calcies, bridges, tunnels, culverts, sluices, floodgates, tumbling bays, cuts, and other works, aids, and defences to be constructed, made, and done for the more effectually defending and securing any lands, tenements, hereditaments, and premises within the jurisdiction of such court against the irruption or overflowing of the sea, or for draining and carrying off the superfluous fresh waters, according to the wisdom and discretion of such court, and also, in like manner and at their discretion, to decree and ordain any former walls or defences against the sea, or against any rivers, streams, sewers, or watercourses, within their commission, to be abandoned and given up, and new defences and walls, banks, sluices, floodgates, tumbling bays, cuts, and other works to be made and continued in lieu thereof; and in every such case to direct by inquiry and presentment of a jury in what manner and proportions the same shall thereafter be repaired and maintained by the person, body politic or corporate, deriving advantage or avoiding damage thereby or therefrom, having regard to previous liabilities in respect of the walls and defences so to be abandoned and given up.

XX. Provided always, That nothing herein-before contained shall be construed to authorize or empower the commissioners acting under any commission of sewers for the county of Kent, or any limits or district within the same, to decree or ordain any wall, bank, sewer, gut, cut, gote, calcey, sluice, floodgate, tumbling bay, or other work, aid, or defence to be constructed, made, or done for conveying the waters of the river Stour, above Sandwich bridge in the county of Kent, into the part of Sandwich haven below the bridge, or into the sea at Pegwell bay, not authorized by an act passed in the sixteenth year of the reign of his late Majesty king George the third, intituled *An Act to enable the Commissioners of Sewers for the several Limits in the Eastern Parts of the County of Kent more effectually to drain and improve the Lands and Grounds within the general Valleys*, or so as in any manner to affect, alter, or interfere with the provisions of the said act for the preventing of prejudice to Sandwich haven.

XXI. Provided always, That nothing in this act contained shall extend or be construed to extend to authorize or empower any court of sewers to make any new walls, banks, sewers, guts, gotes, calcies, sluices, floodgates, tumbling bays, cuts, or other works, aids, and defences, where none have or hath or shall have theretofore been, without the consent in writing, certified to such court of sewers, of the owners and occupiers respectively, or their respective husbands, guardians, trustees, or feoffees, committees, executors, or administrators, of three fourth parts at the least in value of the lands and hereditaments lying within the valley, level, or district proposed to be charged with the costs and expences of making and executing such new works respectively.

XXII. That it shall and may be lawful for the occupier for the time being of land lying next and adjoining to any river, sewer, or watercourse within and subject to the jurisdiction of commissioners of sewers, at any time within six calendar months from and after any gravel, soil, mud, or earth shall have been cast or deposited upon the banks of such river, sewer, or watercourse, by the order of any surveyor, bailiff, expeditor, or other officer of sewers, and at any time within six weeks from and after any rushes, flags, or other weeds shall have been cast or deposited upon such banks as aforesaid, to take and remove for his own use such gravel, soil, mud, and earth, and such rushes, flags, and weeds respectively: Provided always, That such gravel, soil, mud, and earth, and such rushes, flags, and weeds respectively, shall be removed at least ten feet from the land side of the banks of such river, sewer, or watercourse.

XXIII. That if any such occupier shall neglect to remove such gravel, soil, mud, or earth as aforesaid within such six calendar months as afore-

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Not to interfere with provisions of 16 G. 3, c. 62, for preventing of prejudice to Sandwich Haven in Kent.

No new works to be made without the consent of the owners and occupiers of three fourth parts in value of the lands to be charged.

Occupiers of land adjoining sewers may take away soil and weeds from banks for their own use.

Upon neglect of occupiers to

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remove soil,
surveyors may
remove it.

**Commissioners
authorized to
contract for the
purchase of
lands, &c.**

said, or such rushes, flags, or other weeds as aforesaid within such six weeks as aforesaid, for his own use, then and from thenceforth respectively it shall be lawful for any such surveyor, bailiff, expeditor, or other officer of sewers, with workmen, horses, carts, carriages, barrows, and other necessary tools and implements, at any time or times in the day-time to enter upon the land of such occupier, and to take away and remove therefrom such gravel, soil, mud, and earth, and such rushes, flags, and weeds respectively, and also for such purposes to pass and repass, at any time or times in the day-time, through and over any other lands lying between the nearest highway and the banks of such river, sewer, or watercourse: Provided always, That if the owner or occupier of the land upon which any such gravel, soil, mud, earth, rushes, flags, or weeds shall have been deposited shall require the commissioners of sewers to remove the same, such commissioners shall, within six weeks after such requisition as aforesaid, cause the same to be removed from and off the said land.

XXIV. That it shall be lawful for any court of commissioners of sewers to treat, contract, and agree with the owners of and persons interested in any messuages, lands, tenements, hereditaments, and premises, with their appurtenances, for the purchase thereof or of any part thereof, for the purpose of widening, deepening, strengthening, maintaining, repairing, and amending any rivers, streams, watercourses, walls, banks, and other works, aids, and defences within the jurisdiction of commissioners of sewers, and for the loss or damage which such owners or persons may sustain thereby respectively; and it shall be lawful for all bodies politic, corporate, or collegiate, corporations aggregate or sole, tenants for life or in tail, husbands, guardians, trustees, feoffees in trust, executors, administrators, and all other persons whomsoever, not only for or on behalf of themselves, their heirs and successors, but also for or on behalf of the person entitled in reversion, remainder, or expectancy after them, and for or on behalf of their cestui que trusts, whether femes covert, infants, or issue unborn, lunatics, idiots, or other person whomsoever, and to and for all femes covert who are or shall be seised of or interested in their own right, and to and for every person whomsoever, who is or shall be possessed of or interested in any such lands, tenements, hereditaments, or premises, or who shall sustain any damage as aforesaid, to contract with the said commissioners for the sale thereof respectively, or for the satisfaction to be made for the same or for such damage as aforesaid, and by conveyance to convey unto the said commissioners all or any of such messuages, lands, tenements, hereditaments, or premises, or any part thereof, for the purposes aforesaid, in manner herein-after mentioned; and all contracts, sales, and conveyances which shall be so made shall be good, valid, and effectual, to all intents and purposes, without fine or recovery, and shall be a complete bar to all estates tail, and other estates, rights, titles, trusts, and interests whatsoever, any law, statute, usage, custom, or other matter to the contrary notwithstanding; and all such bodies politic, corporate, or collegiate, corporations aggregate or sole, tenants for life or in tail, husbands, guardians, trustees, feoffees, committees, executors, administrators, and all other persons shall be and are hereby indemnified for what they or any of them shall do by virtue or in pursuance of this act.

Form of conveyance to commissioners.

XXV. That all such conveyances of any lands, tenements, or hereditaments to be purchased by the said commissioners of sewers shall be expressed in the following or some similar form of words, as the circumstances of the case may require :

I, _____ of _____ in consideration of the
sum of _____ to me paid by six or more of the
commissioners of sewers acting in and for several limits [*here describe*
the limits as set forth in the commission of sewers], do hereby grant and

' release to the commissioners of sewers acting in and for the said
' limits all [*describing the premises to be conveyed*], and all my right, No. I.
' title, and interest in and to the same and every part thereof, to hold 3 & 4 W. 4,
' to the said commissioners, their successors and assigns for ever, by c. 22.
' virtue of the several acts and laws now in force concerning sewers.
' In witness whereof I have hereto set my hand and seal this
' day of in the year of our Lord

XXVI. That if any such body politic, corporate, or collegiate, corpo- Where persons
rations aggregate or sole, tenants for life or in tail, husbands, guardians, shall neglect or
trustees or feoffees, committees, executors, administrators, or any other refuse to treat,
person interested in any such lands, tenements, hereditaments, or pre- &c., commis-
mises, or sustaining any damage as aforesaid, upon notice to him or sioners to issue
them given, or left in writing at the dwelling house or place of abode of their warrants
such person, or of the principal officer of any such bodies politic, cor- to the sheriff
porate, or collegiate, corporations aggregate or sole, tenants for life or in to impanel a jury.
tail, or at the house of the tenant in possession of any such lands, tene-
ments, hereditaments, or premises, shall, for the space of thirty days
next after such notice given or left as aforesaid, neglect or refuse to
treat, or shall not agree in the premises, or by reason of absence shall
be prevented from treating, then and in every such case the said com-
missioners of sewers, or any six or more of them, are hereby empowered
from time to time to issue out their warrant or warrants under their
hands and seals to the sheriff, bailiff, or other returning officer of the
county or place wherein the matter in question shall lie, or if such
sheriff, bailiff, or other returning officer shall be immediately interested
in such matter, then to one of the coroners of such county or place,
commanding such sheriff, bailiff, or other returning officer, or coroner,
to impanel, summon, and return a jury; and the said sheriff, bailiff, or
other returning officer, or coroner, is hereby required accordingly to im-
panel, summon, and return twenty-four men, qualified according to the
laws of this realm to be returned for trials of issues joined in his Ma-
jesty's courts at Westminster; and the persons so to be impanelled,
summoned, and returned are hereby required to come and appear before
the justices of the peace for the county or place in which such lands,
tenements, hereditaments, or premises shall lie, or the matter in ques-
tion or dispute shall arise, at some court of general or quarter sessions
of the peace to be holden in and for the same county or place, or at
some adjournment thereof, as in such warrant or warrants shall be
appointed, in order that out of them a jury of twelve may be sworn, to
inquire touching the matters in question; and in case a sufficient num-
ber of jurymen shall not appear at such time and place, the said sheriff,
bailiff, or other returning officer, or coroner, shall return other honest
and indifferent men that can speedily be procured to attend that
service, to make up the said jury to the number of twelve; and all
parties concerned may have their lawful challenges against any of the
said jurymen; and the clerk of the peace for the said county or place, Jury may be
or his deputy, is hereby empowered and required to summon before the challenged.
said justices all such persons as shall be thought necessary to be
examined as witnesses touching the matters in question, and may order
and authorize the said jury, or any six or more of them, to view the
place or places or matters in controversy; which jury (upon their oaths,
to be administered by the said justices, which oaths, as also the oath to
such person as shall be called upon to give evidence, the said justices
are hereby empowered to administer,) shall inquire of, assess, and ascer-
tain the sum or sums of money to be paid for the purchase of such
lands, tenements, or hereditaments, or the recompence to be made for
damages that may or shall be sustained as aforesaid, and to settle and
ascertain in what proportions the sum or sums of money so assessed
shall be paid to the several persons interested in the premises; and the
said justices shall give judgment for such purchase monies or recom-
pence so to be assessed by such juries; which said verdict, and the jury to assess
damages.
Jury to assess
damages.
Verdict of the
jury to be bind-
ing.

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Commissioners
may impose a
fine on sheriff,
witnesses, &c.
making default.

judgment thereupon pronounced as aforesaid, shall be binding and conclusive to all intents and purposes against all parties, bodies politic, corporate, and collegiate, and all persons whomsoever.

XXVII. Provided always, That if any such sheriff, bailiff, or other returning officer, or coroner, or his deputy or agent, shall make default in the premises, every such person shall for every offence forfeit the sum of twenty pounds; and if any person so summoned and returned as aforesaid on such jury shall not appear, or appearing refuse to be sworn, or being sworn refuse to give his verdict, or in any other manner wilfully neglect his duty, contrary to the true intent of this act, or if any person so summoned to give evidence shall not appear, or appearing refuse to be sworn or examined or to give evidence, every person so offending, having no reasonable excuse, to be allowed by the said justices, shall for every such offence forfeit and pay such sum as the said justices shall appoint, not exceeding the sum of five pounds for any one offence.

Agreements to
be filed with
the clerk of the
sewers.

XXVIII. That all the agreements, contracts, sales, and conveyances, and also all verdicts and judgments, which shall be made and given in relation to any such lands, tenements, and hereditaments as aforesaid, (such verdicts and judgments being certified by the clerk of the peace of the county or place in which such verdict and judgment shall have been given,) shall be delivered to and deposited with the clerk of the sewers for the county, limits, or district wherein such lands, tenements, or hereditaments are situate, and shall be filed with the rolls of the court or commissioners of sewers of such county, limits, or district; and the same, or a true copy thereof, shall be admitted as evidence in all courts whatsoever; and all persons shall have liberty to inspect the same, and take copies thereof, upon paying for every such inspection the sum of one shilling, and for every such copy not exceeding seventy-two words the sum of four-pence, and so in proportion for any greater number of words.

By whom costs
of jury and wit-
nesses to be
paid.

XXIX. That in case any such jury or juries shall deliver a verdict for more money as a satisfaction for such lands, tenements, or property, or for any such loss or damage, than what shall have been offered by such commissioners for the same before the summoning or returning the said jury or juries, then and in such case the costs and expences of summoning and returning the said jury and witnesses, and all other expences attending the hearing and determining of such difference, shall be borne and paid by the said commissioners out of the same fund as the said purchase or compensation money is hereby directed to be paid; and such costs and expences shall be ascertained and settled by an officer of one of his Majesty's superior courts of record at Westminster, to be nominated, in case of dispute, in the county of Middlesex by the lord chief justice of the court of king's bench, and in every other county by the senior judge of the gaol delivery for the time being; but if any such jury or juries shall deliver a verdict for no more or for less money than shall have been offered by the said commissioners before the summoning such jury or juries, then such costs and expences (to be ascertained and settled in like manner) shall be borne and paid by the person with whom such commissioners shall have such controversy or dispute, and shall and may be levied by distress and sale of the goods and chattels of the person liable to pay the same, by warrant under the hands and seals of two justices of the peace for the county or place within which such verdict and judgment shall have been given; and the overplus (if any), after such costs and expences, and the charges of such distress and sale, are deducted, shall be returned, upon demand, unto the owner of such goods and chattels.

From what
fund purchase
and compensa-
tion monies are
to be paid.

XXX. That every sum of money and recompence to be agreed for or assessed as aforesaid shall be paid for out of any monies in the hands of the said commissioners which may be levied on the messuages, tenements, lands, and hereditaments which shall receive benefit or avoid damage by or from such widening, straightening, deepening, repairing,

and amending as aforesaid, or by or from making and maintaining any new walls, banks, sewers, guts, gotes, calcies, sluices, floodgates, cuts, and other works, aids, and defences; and upon payment to such parties or persons, or their agents, or left at their respective usual places of abode, or with the tenant in possession of such lands, tenements, hereditaments, and premises, or into the bank of England in manner directed by this act (as the case may be), then such lands, tenements, hereditaments, and premises respectively shall be vested in such commissioners, and shall and may be taken and used for straightening, widening, deepening, repairing, and amending such rivers, streams, ditches, gutters, sewers, and watercourses, or for making and maintaining any new walls, banks, sewers, guts, gotes, calcies, sluices, floodgates, cuts, and other works, aids, and defences; and all parties and persons whomsoever shall be divested of all right and title to such lands, tenements, and hereditaments.

XXXI. That if any money shall be agreed or assessed to be paid for the purchase of any lands, tenements, or hereditaments purchased, taken, or used, by virtue of the powers of this act, by any commissioners of sewers, which shall belong to any body politic, corporate, or collegiate, or to any feoffee in trust, executor, administrator, husband, guardian, committee, or other trustee, or for or on behalf of any infant, lunatic, idiot, feme covert, cestui que trust, or to any other person whose lands, tenements, or hereditaments are or may be limited in strict or other settlement, or to any person under any other disability or incapacity whatsoever, such money shall, in case the same shall amount to or exceed the sum of two hundred pounds, with all convenient speed be paid into the bank of England in the name and with the privy of the accountant general of the court of exchequer, to be placed to his account there *ex parte* the commissioners of sewers for whom such lands, tenements, or hereditaments shall be taken, pursuant to the method prescribed by an act passed in the first year of the reign of his late Majesty king George the fourth, intituled *An Act for the better securing Monies and Effects paid into the Court of Eschequer at Westminster on account of the Suitors of the said Court, and for the Appointment of an Accountant General and Two Masters of the said Court, and for other Purposes*, and the general orders of the said court, and without fee or reward; to the intent that such money shall be applied, under the direction and with the approbation of the said court, to be signified by an order made upon a petition to be preferred in a summary way by the person who would have been entitled to the rents and profits of the said lands, tenements, and other hereditaments, in the purchase or redemption of the land tax, or in the discharge of any debt or debts, or such other incumbrances, or part thereof, as the said court shall authorize to be paid, affecting the same lands, tenements, or hereditaments, or affecting other lands, tenements, or hereditaments standing settled therewith to the same or the like uses, trusts, intents, or purposes; or where such money shall not be so applied, then the same shall be laid out and invested, under the like direction and approbation of the said court, in the purchase of other lands, tenements, or hereditaments, which shall be conveyed and settled to, for, and upon such and the like uses, trusts, intents and purposes, and in the same manner, as the lands, tenements, or hereditaments which shall be so purchased, taken, or used as aforesaid stood settled or limited, or such of them as at the time of making such conveyance or settlement shall be existing undetermined and capable of taking effect; and in the meantime and until such purchase shall be made the said money shall, by order of the said court, upon application thereto, be invested by the said accountant general in his name in the purchase of three pounds *per centum* consolidated or three pounds *per centum* reduced bank annuities; and in the meantime and until the said bank annuities shall be ordered by the said court to be sold for the purposes aforesaid the dividends and annual produce of the said consolidated or reduced bank an-

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money exceed-
ing 200l.

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Application of
compensation
money when
less than 200l.
and not less
than 20l.

nuities shall from time to time be paid, by the order of the said court, to the person who would for the time being have been entitled to the rents and profits of the lands, tenements, or hereditaments to be purchased as aforesaid, in case such settlement or purchase were made.

XXXII. Provided always, That if any money so agreed or assessed to be paid for any lands, tenements, or hereditaments purchased, taken, or used for the purposes aforesaid, belonging to any corporation, or to any person under any disability or incapacity as aforesaid, shall be less than the sum of two hundred pounds, and shall amount to or exceed the sum of twenty pounds, then and in all such cases the same shall, at the option of the person for the time being entitled to the rents and profits of the lands, tenements, or hereditaments so purchased, taken, or used, or of his guardian or committee in cases of infancy, idiotcy, or lunacy, to be signified in writing under their respective hands, be paid into the bank of England in the name and with the privity of the said accountant general, and be placed to his account as aforesaid, in order to be applied in manner herein-before directed; or otherwise the same shall be paid, at the like option, to two or more trustees to be nominated by the person making such option, and approved by six or more of the commissioners taking such lands, tenements, or hereditaments, such nomination and approbation to be signified in writing under the hands of the nominating and approving parties, in order that such principal money and the dividends and interest arising therefrom may be applied in manner herein-before directed, so far as the case be applicable, without obtaining or being required to obtain the direction or approbation of the said court of exchequer.

Application of
compensation
money when
less than 20l.

XXXIII. Provided also, That when such money so agreed or assessed to be paid as before mentioned shall be less than the sum of twenty pounds, then and in every such case the same shall be applied to the use of the person who would for the time being have been entitled to the rents and profits of the lands, tenements, or hereditaments so purchased, taken, or used as aforesaid, in such manner as the said commissioners, or any six or more of them, shall think fit; or in case of lunacy, idiotcy, or infancy, then to his guardian or committee, to and for the use and benefit of such person so entitled.

Persons in possession to be deemed lawfully entitled to the premises until the contrary shall be shown to the court of exchequer.

XXXIV. That where any question shall arise touching the title of any person to any money to be paid into the bank of England in the name and with the privity of the accountant general of the said court of exchequer, in pursuance of this act, for the purchase of any lands, tenements, or hereditaments to be purchased in pursuance of this act, or to any bank annuities to be purchased with any such money, or to the dividends or interest of any such bank annuities, the person who shall have been in possession of such lands, tenements, or hereditaments at the time of such purchase, and all persons claiming under such person, or under the possession of such person, shall be deemed and taken to have been lawfully entitled to such land, tenements, or hereditaments, according to such possession, until the contrary shall be shown to the satisfaction of the said court of exchequer; and the dividends or interest of the bank annuities to be purchased with such money, and also the capital of such bank annuities, shall be applied and disposed of accordingly, unless it shall be made to appear to the said court that such possession was a wrongful possession, and that some other person was lawfully entitled to such lands, tenements, or hereditaments, or to some estate or interest therein.

If compensation money is refused, or titles not made, or if persons to whom money assessed cannot find, mo-

XXXV. That in case the person to whom any sum or sums of money shall be assessed or agreed for the purchase of any lands, tenements, or hereditaments to be purchased by virtue of this act, shall refuse to accept the same, or shall not be able to make a good title to the premises to the satisfaction of the said commissioners or any six or more of them, or in case such person to whom such sum or sums of money shall be so assessed or agreed to be paid as aforesaid cannot be found, or if the person

entitled to such lands, tenements, or hereditaments be not known or discovered, then and in every such case it shall and may be lawful to and for the said commissioners, or any six or more of them, to order the said sum or sums of money so assessed or agreed to be paid as aforesaid to be paid into the bank of England in the name and with the privy of the accountant general of the court of exchequer, to be placed to his account, to the credit of the parties interested in the said lands, tenements, or hereditaments (describing them), subject to the order, controul, and disposition of the said court of exchequer; which said court of exchequer, on the application of any person making claim to such sum or sums of money, or any part thereof, by motion or petition, shall be and is hereby empowered, in a summary way of proceeding, or otherwise, as to the said court shall seem meet, to order the same to be laid out and invested in the public funds, and to order distribution thereof, or payment of the dividends thereof, according to the estate, title, or interest of the person making claim thereunto, and to make such other order in the premises as to the said court shall seem just and reasonable; and the cashier of the bank of England who shall receive such sum or sums of money is hereby required to give a receipt for the same (mentioning and specifying for what and for whose use the same is received) to such person as shall pay any sum or sums of money into the bank of England as aforesaid.

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ney to be paid into the bank, subject to order of court of exchequer.

XXXVI. Provided always, That where, by reason of any disability or incapacity of the person or corporation entitled to any lands, tenements, or hereditaments to be purchased under the authority of this act, the purchase money for the same shall be required to be paid into the court of exchequer, and to be applied in the purchase of other lands, tenements, or hereditaments, to be settled to the like uses, in pursuance of this act, it shall and may be lawful to and for the said court of exchequer to order the expences of all purchases from time to time to be made in pursuance of this act, or so much of the expences as the said court shall deem reasonable, together with the necessary costs and expences of obtaining such order, to be paid by the said commissioners, or any six or more of them, who shall from time to time pay such sum or sums of money for such purposes as the said court shall direct; and the said commissioners shall and may reimburse themselves all such payments as shall be so made by them as aforesaid in the manner directed, and out of the rates to be raised, levied, and collected for such purposes respectively, under the powers and provisions of the said recited acts and of this act.

Court of exchequer may direct payment of expences in cases where purchases of other lands are made.

XXXVII. That it shall not be lawful for any court of sewers in making any new walls, banks, sewers, cuts, gotes, calcies, sluices, floodgates, tumbling bays, and other works, reparations, amendments, aids, and defences authorized to be made and executed by the said recited acts and this act, or any or either of them, to take down, remove, or make use of any house or building, or any garden, yard, or paddock, or any park, planted walk, or avenue to a house, or any inclosed ground planted as an ornament or shelter to a house, or planted and set apart as a nursery for trees, or any part thereof respectively, without the consent in writing of the owner or proprietor thereof respectively, or of the person, body politic or corporate, hereby authorized to sell and convey as aforesaid, first had and obtained.

Houses and buildings, &c. not to be taken without consent.

XXXVIII. That upon payment or legal tender of such sum or sums of money as shall have been contracted or agreed for between the parties, or assessed by such juries in manner aforesaid, for the purchase of any such messuages, lands, tenements, hereditaments, and premises, or as a compensation for losses or damages as herein mentioned, to the proprietor or proprietors of such messuages, lands, tenements, hereditaments, and premises, or to such other person or persons, bodies politic or corporate or collegiate, as shall be interested therein or entitled to receive such money or compensation respectively, within thirty days next after the same shall be so agreed for or assessed, or upon payment

Vesting land in commissioners of sewers on payment of purchase money.

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of such sum or sums of money, within the said thirty days, into the bank of England, in manner herein directed and required, for the use of the persons entitled thereto, it shall be lawful for the said commissioners, and their agents, servants, and workmen, to enter upon such messuages, lands, tenements, hereditaments, and premises respectively, and thenceforth such messuages, lands, tenements, hereditaments, and premises, together with the yearly profits thereof, and all the estate, use, trust, and interest of any person, bodies politic, corporate, or collegiate, therein, shall become and be vested in the said commissioners for ever; and such payment or tender shall not only bar all right, title, claim, interest, and demand of the person, bodies politic, corporate, or collegiate, to whom the same shall or ought to have been made, but also shall extend to and be deemed and construed to bar the dower of the wife of every such person, and all estates tail, and all other estates in reversion and remainder of his or their issue, and of every other person, bodies politic, corporate, or collegiate whomsoever therein.

Enabling commissioners to sell lands, &c. not wanted.

XXXIX. That it shall and may be lawful for commissioners of sewers, or any six of them, in whom any lands and hereditaments shall be vested by virtue of this act, to sell and dispose of the same or any part thereof, either together or in parcels, as they shall find most convenient and advantageous, to such person as shall be willing to contract for and purchase the same; and the money to arise and be produced by the sale or sales which may be made by the said commissioners of sewers of any land or hereditaments as aforesaid shall be applied to the purposes of making and maintaining sewers works in the limits, valley, level, or district in which such land or hereditaments so sold as aforesaid shall lie or be, but the purchaser thereof shall not be answerable or accountable for any misapplication or nonapplication of such money: Provided always, that the said commissioners of sewers, before they shall sell and dispose of any such land or hereditaments, shall first offer to sell the same to the owner of the adjoining land or ground; and an affidavit made and sworn before a master or master extraordinary in the high court of chancery, or before one of his Majesty's justices of the peace for the county, riding, or division in which such land and hereditaments shall lie, by some person not interested in the premises, stating that such offer was made by or on behalf of the said commissioners, and that such offer was not then and thereupon agreed to or was refused by the person to whom the same was so offered, shall in all courts whatever be sufficient evidence and proof that such offer was made, and was not agreed to or was refused by the person to whom such offer was made (as the case may be); and in case such person shall be desirous of purchasing the same, and he and the said commissioners shall differ and not agree with respect to the price thereof, in such case the price thereof shall be ascertained by a jury in manner herein-before directed with respect to the disputed value of premises to be purchased by commissioners of sewers in pursuance of this act; and the expence of hearing and determining such difference shall be borne and paid in like manner as herein-before directed with respect to purchases made by the said commissioners of sewers, *mutatis mutandis*.

Form of conveyance from commissioners.

XL. That all such conveyances of any lands, tenements, or hereditaments to be sold and disposed of by the said commissioners of sewers shall be expressed in the following or some similar form of words, as the circumstances of the case may require:

‘WE, six
of the commissioners of sewers acting in and for several limits
[here describe the limits as set forth in the commission of sewers], in
consideration of the sum of to
us paid by of do hereby grant
and release to the said all [describing the premises
to be conveyed], and all right, title, and interest of the commissioners
of sewers in and to the same and every part thereof, to hold unto the

‘ said his heirs, executors, administrators, and No. I.
 ‘ assigns for ever. In witness whereof we have hereto set our hands 3 & 4 W. 4,
 ‘ and seals this day of in the c. 22.
 ‘ Year of our Lord

XLII. That it shall and may be lawful for courts of sewers, from time to time as occasion shall require, to borrow and take up at interest any sum or sums of money for the purchase of messuages, lands, tenements, or hereditaments, or for defraying the costs, charges, and expences of any work or works required to be done within the respective limits of their commission, for making, repairing, and maintaining any sea bank, wall, or other defence or defences, against any violent irruption or encroachment or apprehended encroachment of the sea or rivers, or for the making and maintaining any new cut, or for the more effectual and better draining and carrying off the floods and superfluous fresh waters, or for the building, constructing, repairing, amending, renewing, and maintaining any floodgates, sluices, bridges, dams, or other necessary works, or for any other construction, work, matter, or thing which the said court shall judge necessary or expedient for the more effectual defence, security, and improvement of the lands, grounds, tenements, and hereditaments within the jurisdiction of such court of sewers; and the repayment of such sum and sums of money, with interest, shall and may from time to time be secured to the party lending the same upon or by virtue of a decree or ordinance under the hands and seals of the commissioners, or any six of them, (which decree and ordinance they are hereby authorized to make,) charging the lands, tenements, and hereditaments receiving benefit or avoiding damage from the said several works, and the owners or occupiers, or owners and occupiers for the time being thereof, with the payment of such sum and sums of money, with interest, according to the proportions and in the manner returned in and by any presentment touching or concerning the costs and charges of such last-mentioned works, or the lands, grounds, tenements, and hereditaments receiving benefit or avoiding damage thereby: Provided always nevertheless, That no such money shall be borrowed or taken up at interest as aforesaid without the consent in writing, certified to the said commissioners or any six of them, of the owners and occupiers respectively, or their respective husbands, guardians, trustees or feoffees, committees, executors or administrators, of three fourth parts at the least in value of the lands and hereditaments lying within the valley, level, or distinct proposed to be charged with the repayment thereof: Provided also, That no person being the owner for the time being of any lands, tenements, or hereditaments shall be chargeable or liable, in respect of such lands, tenements, or hereditaments, for or towards any principal money borrowed or taken up as aforesaid, with or to the payment of any greater sum of money than one-fifth part of the value of such lands, tenements, or hereditaments at the time of borrowing or taking up the same: Provided also, That it shall be provided, expressed, and declared in and by the said decree and ordinance, that the sum or sums of money so borrowed and taken up thereon shall be repaid within a time to be named in such decree and ordinance, not being for a longer period than fourteen years from the making thereof, by equal annual or shorter instalments, together with interest on the sum or sums so borrowed or taken up, or on such part thereof as shall from time to time remain due and unpaid; and the said last-mentioned decree and ordinance shall be and remain in full force and effect until such sum and sums of money, and all interest thereon, shall have been fully paid and satisfied; any thing in the said recited acts or this act contained, or any custom or usage, to the contrary notwithstanding.

XLIII. And for facilitating the raising, securing, and paying off from time to time of the monies which it may be necessary so to raise and borrow as aforesaid, be it further enacted, That it shall and may be lawful for any court of sewers from time to time to grant securities, in

Power to borrow and take up money at interest for making and maintaining works.

Courts of sewers may grant securities to persons advancing money

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the form of a certificate, under the hands and seals of six of the said commissioners, to each person who shall so advance any sum of money as aforesaid, setting forth the amount of the sum borrowed, the rate of interest payable for the same, the periods at which the said principal money shall be decreed to be paid off by instalments, and a general description of the particular lands, or, if by assessment, the district, limit, or level in which the lands are situate, which are to be charged with the repayment thereof; and that every such security or certificate shall be made in the following words, or by any other words to the same purport and effect :

Form of security.

‘ BY virtue of an act passed in the third year of the reign of his Majesty king William the fourth, intituled [*here insert the title of this act*], we the undersigned, being six of the commissioners [*here insert the general description of the commission under which they act*], in consideration of the sum of _____ of lawful money of Great Britain to [*here insert the name of the receiver of the district*] lent and paid by _____ do hereby certify, that [*here describe the particular lands, or, if by assessment, the valley, level, or limit in which the lands are situate, which are to be charged,*] are become charged with the repayment of the said sum, in instalments of one _____ part on the _____ day of _____ in every year, together with interest on such part of the said principal money as shall remain unpaid from time to time at _____ and after the rate of _____ pounds per centum per annum, until the whole thereof shall be repaid; which sum so lent and advanced by the said _____ is part of a capital sum of _____ which at a court of sewers holden at _____ on the _____ day of _____ last was decreed and ordered to be taken up and borrowed for the purpose of [*here briefly state the general cause or object of borrowing the money*]. In witness whereof we have hereunto set our hands and seals the _____ day of _____ ’

Securities may be transferred.

XLIII. That every person, body politic, corporate, collegiate, aggregate, or sole, who shall be entitled to the money thereby secured, and his, her, or their executors, administrators, and successors, may from time to time personally, or by attorney thereunto lawfully authorized, assign or transfer his or their right, title, interest, or benefit to the said principal and interest money thereby secured to any person whatsoever, by indorsing on the back of such security, in the presence of one credible witness, who shall subscribe his name thereto, the following words, or words to the like effect :

Form of transfer.

‘ I [*or We*] [*A. B. of, &c.*], in consideration of the sum of _____ to me this day paid by [*C. D. of, &c.*], do hereby transfer the within certificate of charge, with all my right and title to the principal money thereby secured and now remaining due thereon, and to all the interest money now due or hereafter to become due, unto his [*her, or their*] executors, administrators, successors, and assigns [*as the case may be*]. Given under my hand and seal this _____ day of _____
Witness,

Transfers to be produced to clerk to commissioners, and to be registered by him.

Which transfer shall be produced and notified to the clerk for the time being of the said commissioners before the party holding the same transfer shall be entitled to receive any principal or interest due or owing as aforesaid; and every such clerk shall make an entry amongst the records of the said commissioners of the particulars of every such transfer, and indorse a minute of such entry upon the back of every such transfer, signed by such clerk, and for which entry and minute he shall be entitled to a fee of five shillings, and no more.

Courts of sewers may be held out of the

XLIV. And whereas it has been found in some instances difficult or inconvenient to hold courts of sewers within the limits or districts of

the commission under or by virtue whereof such courts have been held, by reason that no house or other sufficient building could be procured within such limits or districts; be it therefore further enacted, That it shall and may be lawful for commissioners acting under any commission of sewers to hold courts of sewers at any place not being at a greater distance than five miles from the limits or districts of such commission.

XLV. That all laws, acts, decrees, constitutions, and ordinances heretofore made, done, decreed, and ordained at or by any court of sewers holden without the limits or district of the commission under or by virtue whereof such court has been holden, but within five miles of the limits or district of such commission, shall be and they are hereby declared to be as valid and legal, and shall henceforth be and remain in as full force and virtue, as if the same laws, acts, decrees, constitutions, and ordinances had been made, done, decreed, and ordained at a court of sewers holden within the limits or district of the commission under or by virtue whereof such court was holden; any statute, law, usage, or custom to the contrary notwithstanding.

XLVI. And whereas in many cases the burthen of supporting, repairing, and maintaining a common sea wall, bank, sewer, or other work may be divided among divers persons, each of whom may be liable to the repair of a certain portion thereof; and in order to avoid the necessity of presenting each such person separately in respect of the nonrepair of such common sea wall, bank, sewer, or other work, be it further enacted, That it shall be lawful for any sewer's jury, bailiff, surveyor, expeditor, or other person to present the whole of such sea wall, bank, sewer, or other work respectively, or such part thereof respectively as shall at any time be out of repair or require cleansing, and to allege in such presentment what persons or bodies politic or corporate are liable to the repair thereof, and also to specify what part or portion of such sea wall, bank, sewer, or other work each such person, body politic or corporate, is bound or liable to repair, without making a separate and distinct presentment against each such person or body politic or corporate; and upon twenty-eight days' notice of such presentment to be left with, or at the last or usual place of abode or office of such person, body politic or corporate, each such person, body politic or corporate, shall be at liberty to traverse the allegation contained in such presentment as to his liability to the repair of such part of such sea wall, bank, sewer, or other work as in such presentment is alleged against him; and trial of such traverse shall be thereupon had as if such presentment had been solely and exclusively made against such person, body politic or corporate, so traversing the same as aforesaid.

XLVII. That the property of and in all lands, tenements, hereditaments, buildings, erections, works, and other things which shall have been or shall hereafter be purchased, obtained, erected, constructed, and made by or by the order of, or which are or shall be within or under the view, cognizance, or management of any commissioners of sewers, with the several conveniences and appurtenances thereunto respectively belonging, and also all and singular the goods, tools, utensils, materials, and things whatsoever had and to be had, bought, procured, or provided by or by the order of, or which are or shall be within or under the view, cognizance, or management of such commissioners, shall be and the same are hereby vested in the commissioners of sewers within or under whose view, cognizance, or management such lands, tenements, hereditaments, buildings, erections, works, goods, tools, utensils, materials, and things shall respectively be, who are hereby empowered to bring or cause to be brought any action or actions, or to prefer or order the preferring of any bill or bills of indictment, against any person who shall dig up, break or pull down, damage, destroy, injure, spoil, steal, take or carry away, or wilfully and wrongfully buy or receive, any such lands, tenements, hereditaments, buildings, erections, works, goods, tools, utensils, materials, and things whatsoever as aforesaid, or any part thereof; and in every such action and indictment the

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limits of the
commission.

All acts of commissioners done without the district of the commission, but within five miles thereof, to be valid.

Several defaults may be included in one presentment, and separately traversed.

Property in lands, buildings, goods, &c. vested in commissioners.

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Officers to
account when
required.

said lands, tenements, hereditaments, buildings, erections, works, goods, tools, utensils, materials, and things shall be laid or described to be the property of the said commissioners, without stating or specifying the name or names of all or any of such commissioners.

XLVIII. That every clerk, treasurer, collector, receiver, and other officer appointed and to be appointed by any court of sewers shall, as often as required by such court, render and give to the said court, or to such person as it shall for that purpose appoint, a true, exact, and perfect account in writing under their respective hands, and produce and deliver unto the said court, or to such person as aforesaid, proper vouchers of and for all monies which they shall respectively before the time of rendering such accounts have received, paid, and disbursed for or on account or by reason of their respective offices; and in case any money so received by any such officer shall remain in his hands, the same shall be paid by him to such person as the said court shall authorize and empower to receive the same; and if any such officer shall refuse or wilfully neglect to render and give such account, or to produce and deliver up such vouchers, or shall, for the space of fourteen days after being thereunto required by the said court, refuse or neglect to render, give, produce, and deliver up to them, or to such person as they shall direct or appoint, such true and perfect account, and all or any such vouchers as aforesaid, and all or any books, papers, writings, matters, and things in his hands, custody, or power, it shall and may be lawful for the said court, in a summary way, to cause such money as shall appear to be due and unpaid from such officer to be levied by distress and sale of the goods and chattels of such officer, rendering to such officer the overplus (if any), on demand, after payment of the money remaining due, and deducting the charges and expences of making such distress and sale; and if sufficient distress cannot be found, or if any such officer shall refuse or wilfully neglect to render such account, or to deliver up all or any vouchers, books, papers, writings, matters, or things in his custody or power relating to the execution of his office, the said court shall or may commit him to any house of correction or common gaol of the county, city, or liberty in which such court of sewers shall have jurisdiction, there to remain without bail or mainprize until he shall have made and given a true and perfect account, and shall have delivered up the vouchers relating thereto, and shall have paid the money (if any) remaining in his hands as aforesaid, according to the directions of the said court, or shall have compounded with the said court for such money, and paid such composition according to their direction (which composition the said court is hereby empowered to make and receive), or until he shall have delivered up all such books, papers, and writings, matters and things as aforesaid, or have given satisfaction to the said court concerning the same; but no such officer who shall be committed on account of his not having sufficient goods and chattels as aforesaid shall be detained in prison by virtue of this act for any longer time than six calendar months.

Removing officer from the possession of the property of courts of sewers.

XLIX. That if any officer or servant of any court of sewers who shall be by such court discharged from his office shall be in possession of any houses, buildings, lands, floodgates, sluices, dams, works, materials, tools, or implements so belonging to or vested in any such commissioners of sewers as aforesaid, and shall refuse to deliver up the possession thereof within two days after notice of his being discharged and of his being required to deliver up the same shall be given to him, or left at his last or most usual place of abode, or if the wife, widow, family, or representatives of any such officer or servant who shall happen to die, shall, after like notice given to her, them, any or either of them, refuse to deliver up possession of the same within the like time after she, they, or either of them shall be required so to do, then and in either of the said cases it shall and may be lawful for any such court of sewers for the county, limits, or district wherein the same property, matter, or thing refused to be delivered up may be, by warrant under

the hands and seals of six commissioners of sewers for the county, limits, or district, to order a constable or other peace officer, with such assistance as shall be deemed necessary, to enter any such houses, buildings, lands, floodgates, sluices, dams, or other works so refused to be delivered up, in the day-time, and to remove the persons who shall be found therein, together with their goods, out of such premises, and also to take possession of the same, and of all such other property, matters, and things belonging to or vested in the said commissioners of sewers as shall be so refused to be delivered up as aforesaid, and to put the said commissioners, or their officer or servant, in possession thereof.

L. That it shall be lawful for any court of sewers to take such security from every treasurer, receiver, collector, expeditor, and other ministers and officers, as to such court shall seem meet, for the just and faithful execution of such office or trust, and such security shall be given by bond or bonds to the clerk for the time being to the said commissioners of sewers; and in case of forfeiture it shall be lawful for the said court of sewers to sue upon such bond or bonds in the name of the clerk to the said commissioners of sewers for the time being, and to carry on such suit at the costs and charges and for the use and benefit of the fund for the security of which such bond or bonds shall have been taken, fully indemnifying and saving harmless such clerk from all costs and charges in respect of such suit from and out of such fund; and no action or suit to be brought or commenced in the name of the clerk in the manner aforesaid shall abate or be discontinued by the death, resignation, or removal of such clerk, or by the expiration of any commission of sewers or other authority under which the said clerk may act as aforesaid.

LI. That it shall not be lawful for any court of sewer to continue or appoint the person who hath been or who may be appointed their clerk in the execution of any commission of sewers, or the partner of any such clerk, or the clerk or other person in the service or employ of any such clerk, or the clerk or other person in the service or employ of the partner of such clerk, the treasurer for the purposes of the said recited acts or of this act, or to continue or appoint any person who hath been or who may be appointed treasurer, or the partner of any such treasurer, or the clerk or other person in the service or employ of any such treasurer, or the clerk or other person in the service or employ of the partner of such treasurer, the clerk of the said commissioners; and if any person shall continue in or accept both the offices of clerk and treasurer in the execution of any commission of sewers, or if any person being the partner of any such clerk, or the clerk or other person in the service or employ of any such clerk or of his partner, shall continue in or accept the office of treasurer, or shall act as deputy of such treasurer, or shall in any manner officiate for such treasurer, or being the partner of any such treasurer, or the clerk or other person in the service or employ of any such treasurer or of his partner, shall continue in or accept the office of clerk in the execution of any commission of sewers, or shall act as deputy of such clerk, or shall in any manner officiate for such clerk, or if any such treasurer shall hold any place of profit or trust under such court of sewers other than that of treasurer, every such person so offending shall for every such offence forfeit and pay the sum of one hundred pounds to any person who shall sue for the same to be recovered, together with full costs of suit, in any of his Majesty's courts of record at Westminster, by action of debt or on the case, or by bill, suit, or information, wherein no essoign, protection, or wager of law, nor more than one imparlance, shall be allowed.

LII. And for the better carrying into execution the powers and authorities of the said commissioners of sewers, be it further enacted, That all and every chief and petty constables, headboroughs, and tithingmen, or by whatsoever other name or names such chief or petty constables may be called or known, and other peace officers, of or within the re-

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Courts of
sewers may
take security
from officers
and sue for for-
feitures.

Treasurer and
clerk not to be
the same per-
son.

Constables to
obay orders of
commissioners.

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Fines, &c. may
be levied by
warrant of
commissioners
of sewers.

spective hundreds, parishes, townships, liberties, districts, or places within the jurisdiction of the said respective courts, shall and they are hereby authorized and required to obey and execute all and every the orders, warrants, precepts, or other process which may be to them directed by the said commissioners; which said commissioners respectively are hereby authorized to direct such their orders, warrants, precepts, or other process to such chief or petty constables, headboroughs, tithing-men, and other peace officers accordingly.

LIII. That no fine, amerciamment, penalty, or forfeiture which from and after the passing of this act shall be set or imposed by any commissioners of sewers upon any person, body politic or corporate, for not cleansing, scouring, repairing, or maintaining, or for obstructing or injuring, any of the walls, ditches, banks, gutters, sewers, gotes, bridges, and streams, or for any other cause, matter, or thing, within the jurisdiction of the said commissioners respectively, shall hereafter be returned or estreated into the court of exchequer; but that the same fines, amerciamments, penalties, and forfeitures, and all penalties and forfeitures imposed by this act, except as herein otherwise provided, shall and may be demanded and received by the treasurer, clerk, expeditor, or other person appointed by the said commissioners to receive the same, and if not paid upon demand shall and may be levied by distress and sale of the goods and chattels of the person, body politic or corporate, upon whom such fines, amerciamments, penalties, or forfeitures shall or may be so set or imposed, by warrant under the hands and seals of the said commissioners, or any six or more of them, together with the costs and charges of such distress and sale, rendering the overplus (if any) to the party or parties entitled thereto; which warrant the said commissioners are hereby authorized to issue; and the said fines, amerciamments, penalties, and forfeitures, when so received or levied, shall and may be applied by the said commissioners to such and the same uses and purposes as the monies raised, levied, or set apart by the said commissioners for defraying and reimbursing the general expences of executing the commission of sewers under which they shall or may act or may be applicable.

Form of war-
rant for levying
fines, &c.

LIV. That the warrant authorizing the levying of any such fine, amerciamment, penalty, or forfeiture payable by virtue of this act may be in the words or to the effect following:

‘ To our bailiff of sewers,
‘ and to and
‘ our collectors, and to each and every of them, and to all con-
‘ stables and other peace officers.
‘ WHEREAS at the court [or session] of sewers holden for the limits
‘ [here state the name of the commission] on the day of
‘ last, A. B. of in the county of
‘ carpenter, was fined [amerced, or otherwise, as the
‘ case may be] in the sum of which sum it hath
‘ this day been proved to us, the undersigned, being six or more of the
‘ justices and commissioners of sewers for the aforesaid limits, by the
‘ oath of duly appointed to receive the
‘ same fine [amerciamment, penalty, or forfeiture, as the case may be] that
‘ the said hath neglected or omitted
‘ to pay when demanded of him: These are therefore to authorize and
‘ command you, any or either of you, to levy the said sum of
‘ by distress and sale of the goods and chattels of
‘ the said together with the costs and
‘ charges of such distress and sale, rendering the overplus, if any, to
‘ the said Given under our hands and
‘ seals the day of in the year
‘ of our Lord one thousand eight hundred and

Commissioners
may decree and
assess costs;

LV. That in all and singular the orders, decrees, or other proceedings hereafter to be made touching or concerning any matter or thing within

the jurisdiction of any court of sewers, it shall and may be lawful to and for any such court of sewers to order and decree that the costs, charges, and expences of and incidental to the making and putting in force such order or decree, orders or decrees, shall be paid and borne by the person body politic or corporate, upon or against whom, or by reason of whose default, or for whose benefit, such order or decree, orders or decrees, shall respectively be made, which costs, charges, and expences shall and may be ascertained and settled by or by the authority of any such court of sewers; and when any such costs, charges, and expences shall be ordered and decreed to be paid as aforesaid, and such order or decree, orders or decrees, shall not be previously altered, reversed, or quashed by or at any subsequent court of sewers, or by any other court or courts, upon removal of the same by certiorari or otherwise, the same costs, charges, and expences shall and may, at any time after the court of sewers immediately following the granting or passing of such orders or decrees respectively, such court being at the distance of twenty-one days at the least from the service of such orders or decrees respectively, be levied and raised, together with the costs and charges of raising and levying the same, by distress and sale of the goods and chattels of the person, body politic or corporate, by whom the same shall or may respectively be ordered or decreed to be paid as aforesaid, by the bailiff, expeditor, surveyor, or other known officers of the said commissioners of sewers for the time being, or by any constable or peace officer or any other person to be named in and by such orders or decrees respectively, without any further order or decree of the said court of sewers: Provided always, That if no such distress or distresses as aforesaid can be found, the same costs, charges, and expences, together with the costs and charges of raising and levying the same, shall and may be raised and levied upon and out of the lands, tenements, and hereditaments, within the limits of the commission under and by virtue of which the same orders and decrees shall respectively be made, of or belonging to the person, body politic or corporate, upon or against whom such orders and decrees shall respectively be made, in such and the same manner as the same would have been leviable if the same lands, tenements, or hereditaments had been lawfully assessed in the amount or respective amounts of the same costs, charges, and expences to or for a lawful scot, rate, or assessment for the purposes of the same commission, and the same lands, tenements, and hereditaments shall be subject to all such and the same orders and decrees as the same would have been subject to, and such orders and decrees shall be of the same force and authority as if the same costs, charges, and expences were a lawful scot, rate, or assessment as aforesaid, and unpaid.

LVI. Provided also, That all and every sum and sums of money which shall or may be raised or levied by or for the costs, charges, and expences of any officer of sewers as aforesaid shall be paid into the hands of the treasurer or expeditor of the said commissioners acting for the district in or for which the orders or decrees shall respectively be made, and shall be paid, applied, and disposed of, so far as the same will extend, in defraying and reimbursing the costs, charges, and expences which shall have been so incurred as aforesaid, subject to such order and disposition of the said commissioners, as they or any six or more of them shall deem to be just and reasonable.

LVII. That commissioners of sewers may sue and be sued at law or in equity for or concerning any matter or thing whatever, or for or relating to the lands and hereditaments or other property vested or to become so vested in them as aforesaid, or to any river, stream, sewer, wall, bank, or other work or matter within or under the view, cognizance, management, or jurisdiction of such commissioners, in the name of any one commissioner, or in the name of their clerk for the time being; and in any action or actions of ejectment which shall or may be brought or prosecuted by the said commissioners for recovering the possession of such houses, buildings, or other property so vested in

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and in default of distress may raise the same upon the lands of the defaulters.

Appropriation of costs when levied.

Commissioners of sewers may sue and be sued in the name of their clerk.

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them as aforesaid, it shall be sufficient to lay the demise in such action or actions in the names of six commissioners, or in the name of such clerk; and no action or suit to be brought or commenced by or against the said commissioners or the said clerk in manner aforesaid shall abate or be discontinued by the death, resignation, or removal of such commissioners or of such clerk, or by the expiration of any commission of sewers or other authority under which the said commissioners or clerk may act as aforesaid; provided that no execution shall issue or be had in any such action or suit against such commissioners or clerk until six months shall have elapsed after final judgment in such action or suit shall have been obtained.

Clerks and
commissioners
to be reim-
bursed.

LVIII. Provided always, That every such clerk in whose name any such action or suit shall be brought, commenced, or sued, and every such commissioner of sewers whose name shall be used in any bill, information, prosecution, or indictment, in pursuance of this act, and that every such commissioner of sewers in whose name the said commissioners shall so sue or be sued as aforesaid, shall be fully reimbursed and paid all such costs, charges, damages, and expences as by the event or in consequence of any such action, suit, bill, information, indictment, or prosecution he shall pay, sustain, or be put unto, or become chargeable with or liable to by reason of his being plaintiff or defendant as aforesaid, or his name being used as aforesaid, by and out of the monies that shall be in or come to the hands of the said clerk or of the treasurer or expeditor for the time being as such clerk, treasurer, expeditor, or by and out of the monies to arise and be collected by a scot, rate, or tax to be granted, raised, and levied, under the authority and direction of the said commissioners of sewers having authority to raise and levy such scot, rate, or tax, or such of them as shall be authorized to act on behalf of themselves and the others, as the case may be, on the scotable, rateable, or taxable lands, tenements, and hereditaments, the district for which he or they so acts or act, or hath or have acted as clerk as aforesaid, or for which he is so authorized to act as aforesaid; and which said scot, rate, or tax may be levied and raised under and by virtue of this act for the purposes aforesaid.

Clerk, being
plaintiff may
be a witness.

LIX. Provided always, and be it further enacted, That the clerk being the plaintiff, prosecutor, or defendant in any such actions, suits, proceedings, prosecutions, or indictments as aforesaid shall not affect the competency of such clerk to be a witness in any such actions, suits, prosecutions, and indictments, in the same manner as he might have been if his name had not been made use of as the plaintiff, prosecutor, or defendant in any such actions, suits, proceedings, prosecutions, or indictments.

Rule for the
interpretation
of certain words
and terms of
this act.

LX. That the words "court" and "court of sewers" in this act shall respectively be deemed to mean every court, sessions, assemblage, or meeting of any six or more commissioners of sewers (three whereof being of the quorum) named in any commission of sewers, and acting in the execution thereof; and wherever in this act any word or words is or are used or employed importing the singular number or the masculine gender only, such word or words shall extend to and shall be construed to include several persons as well as one person, and females as well as males, and a body or bodies politic, corporate, or collegiate, corporation or corporations aggregate or sole, as well as individuals, unless it be otherwise specially directed or provided for.

This act not to
prejudice any
local act.

LXI. That nothing in this act contained shall extend or be construed to extend to affect, alter, abridge, or interfere with any local or private act of parliament for sewers concerning any county, city, town, district, lands, or limits, or any commission of sewers in the county of Middlesex, within the distance of ten miles from the Royal Exchange in the city of London, except such parts of the said county as may lie within any commission of sewers of the county of Essex; or to affect, alter, abridge, or interfere with any navigable river, canal, port, or harbour under the management or power of any commissioners, trustees, or

proprietors by virtue of any local or private act of parliament; or to affect, alter, abridge, or interfere with any charter, law, usage, or custom in or concerning Romney Marsh in Kent, or the great level of the fens called Bedford Level.

No. I.
3 & 4 W. 4,
c. 22.

LXII. That nothing in this act contained shall extend or be construed to extend to repeal, or in anywise affect, alter, abridge, or interfere with the commissioners of sewers of the city of London and liberties thereof, or the rights, powers, or privileges of the mayor and commonalty and citizens of the city of London, in relation to the sewers, drains, vaults, and bridges within the said city or liberties, or any act or acts of parliament heretofore made for making, amending, defending, widening, altering, or cleansing the said sewers, drains, vaults, and bridges within the said city and liberties.

Saving rights of
the city of Lon-
don.

[No. II.] 4 & 5 W. IV. c. 42.—An Act to facilitate the taking of Affidavits and Affirmations in the Court of the Vice-Warden of the Stannaries of Cornwall.

[30th July 1834.]

WHEREAS suitors and others having business in the courts of the stanneries, held by the vice-warden of the said stannaries, can make affidavits or affirmations relating thereto before the vice-warden only; and it is expedient, and will be for the benefit of such suitors and others, that other persons as well as the said vice-warden have authority to take such affidavits or affirmations: Be it therefore enacted, &c. That any commissioner of any of the superior courts of common law at Westminster, having by commission from such courts or any of them authority to take affidavits in matters relating to such courts or any of them, may, without fee or reward, apply for and have, by commission from the said vice-warden, under the seal of the stannaries kept by him, authority to take affidavits or affirmations in all suits and matters relating thereto brought into the court of the said vice-warden by way of appeal from the courts of the stewards of the said stannaries; and that any master extraordinary of his Majesty's high court of chancery may, without fee or reward, apply for and have, by like commission from the said vice-warden, authority to take affidavits or affirmations in all other suits, petitions, or matters to be commenced or being in the court of the said vice-warden; and that all and every person and persons wilfully swearing or affirming falsely in any affidavit to be made before any person so authorized to take affidavits or affirmations as aforesaid shall be deemed guilty of perjury, and be liable to the penalties of perjury, and be thereupon prosecuted in any court of competent jurisdiction.

Commissioners
of superior
courts of com-
mon law at
Westminster,
having commis-
sions from
vice-warden of
the stannaries,
empowered to
take affidavits
in the court of
the vice-war-
den.

Persons swear-
ing falsely be-
fore them
guilty of per-
jury.

II. That this act shall commence and take effect on the first day of October one thousand eight hundred and thirty-four.

Commence-
ment of act.

III. That this act shall be deemed and taken to be a public act, and shall be judicially taken notice of as such by all judges, justices, and others.

Public act.

[No. III.] 5 & 6 W. IV. c. 94.—An Act for amending and consolidating the Acts of Parliament for the Recovery of Small Debts in the City of London and the Liberties thereof, and for enabling the Goods of the Debtors to be taken in Execution (1). [21st August 1835.]

WHEREAS, before the passing of the act of parliament first herein-after recited, the lord mayor and aldermen of the city of London,

(1) This statute is printed among the local acts, but its importance justifies its insertion in the present work.

No. III.
5 & 6 W. 4,
c. 94.

1 Jac. 1, c. 14.

3 Jac. 1, c. 15.

14 G. 2, c. 10.

25 G. 3, c. 45.

39 & 40 G. 3,
c. 104.

Recited acts,
except 25 G. 3,
c. 45, repealed.

Not to revive
repealed acts.

Recited act
25 G. 3, c. 45,
repealed as to
London.

Acts done in
pursuance of
former acts to
be valid.

by virtue of divers acts of common council made within the said city for the relief of poor debtors dwelling within the said city, were accustomed monthly to assign two aldermen and twelve discreet commoners to be commissioners, and sit in the court of requests in the Guildhall of the same city, to hear and determine all matters of debt not amounting to the sum of forty shillings to be brought before them: And whereas, for the more perfect establishment of the said court, an act was passed in the first year of the reign of king James the first, intituled *An Act for Recovery of Small Debts and relieving of poor Debtors in London*: And whereas an act was passed in the third year of the reign of king James the first, intituled *An Act for the recovering of Small Debts and for the relieving of poor Debtors in London*: And whereas an act was passed in the fourteenth year of the reign of king George the second, intituled *An Act to explain and amend an Act made in the Third Year of the Reign of King James the First, intituled 'An Act for the recovering of Small Debts and for the relieving of poor Debtors in London:'* And whereas an act was passed in the twenty-fifth year of the reign of king George the third, intituled *An Act for reducing the Time for the Imprisonment of Debtors committed to Prison upon Prosecutions in Courts of Conscience in London, Middlessex, and the Borough of Southwark, to the same Periods in each Court, and for abolishing Fees paid by those Debtors to Gaolers or others on account of such Imprisonment*: And whereas an act was passed in the thirty-ninth and fortieth years of the reign of king George the third, intituled *An Act to explain, amend, and render more effectual an Act passed in the Third Year of the Reign of King James the First, intituled 'An Act for the recovering of Small Debts and for the relieving of poor Debtors in London,' and an Act passed in the Fourteenth Year of the Reign of his late Majesty King George the Second, to explain and amend the above-mentioned Act; and likewise for extending the Powers of the Court of Requests in the City of London in and by the said Two several Acts continued and established*: And whereas it would facilitate the proceedings of the said court, and the encouragement of trade in the said city and the liberties thereof, if the provisions of the said recited acts were consolidated, and better and more extensive powers were granted for the more speedy recovery of debts of greater amount: May it therefore please your Majesty that it may be enacted; and be it enacted, &c. That the said recited acts of the first year of the reign of king James the first, the third year of the reign of king James the first, the fourteenth year of the reign of king George the second, and the thirty-ninth and fortieth years of the reign of king George the third, and all and every the clauses, powers, provisions, matters, and things therein respectively contained, shall, from the thirtieth day of September one thousand eight hundred and thirty-five, be and the same are hereby repealed; and none of the said recited acts or parts thereof which have been repealed by other of the same acts shall be hereby revived.

II. That the said recited act of the 25th year of the reign of king George the third, and all and every the clauses, powers, provisions, matters, and things therein contained, shall, so far only as relates to the said court of requests of the city of London and liberties thereof, and the debtors committed therefrom from the said thirtieth day of September one thousand eight hundred and thirty-five, be and the same are hereby repealed.

III. Provided always nevertheless, That all acts, judgments, orders, and decrees made or to be made by the commissioners appointed by virtue of the said recited acts or any of them on or before the said thirtieth day of September one thousand eight hundred and thirty-five, and all acts, executions, distresses, imprisonments, penalties, forfeitures, and proceedings to be done, suffered, incurred, recovered, or executed in pursuance of such judgments, orders, and decrees, or any of them, either on or before or after the said thirtieth day of September one thousand eight hundred and thirty-five, shall be valid and effectual in the same manner to all intents and purposes as if the said judgments,

orders, decrees, acts, executions, distresses, imprisonments, penalties, forfeitures, and proceedings had been made, done, suffered, incurred, recovered, or executed after the said thirtieth day of September one thousand eight hundred and thirty-five in pursuance and under the authority of this act.

No. III.
5 & 6 W. 4,
c. 94.

IV. That two aldermen of the city of London, together with not less than twenty inhabitant householders of the respective wards or districts herein-after mentioned, including the common councilmen for the time being of the said respective wards or districts, shall, in such manner as hath been heretofore accustomed, be nominated and appointed to be commissioners of the court of requests in and for the city of London for the recovery of small debts in the said city and the liberties thereof, and to sit as usual in the said court for one calendar month in the rotation following; (that is to say,)

In the Year	For the Month of	Of the Ward of	Rotation.
1835	October	Aldgate and Lime Street.	
	November	Bishopsgate Within and Without	
	December	Broad Street.	
1836	January	Billingsgate.	
	February	Cornhill.	
	March	Aldersgate Within and Without.	
	April	Queenhithe.	
	May	Castle Baynard.	
	June	Farringdon Without.	
	July	Portoken.	
	August	Vintry.	
	September	Langbourn.	
	October	Cheap.	
	November	Bread Street.	
	December	Candlewick.	
1837	January	Dowgate.	
	February	Bridge.	
	March	Walbrook.	
	April	Bassishaw.	
	May	Cordwainer.	
	June	Coleman Street.	
	July	Farringdon Within.	
	August	Cripplegate Within and Without.	
	September	Tower.	

And such commissioners shall from time to time hereafter continue to be nominated and appointed from each and every of the said wards or districts in the same rotation for one calendar month in every succeeding two years; and the said commissioners are hereby empowered and required to meet and to hold the said court in the room in Guildhall Buildings now used for the purposes of the said court, or in the Guildhall of the said city, or any convenient room or rooms within the city of London to be appointed for that purpose from time to time by the mayor, aldermen, and commons of the said city, in common council assembled; and the said court shall be holden at such time or times and on such day or days as the said mayor, aldermen, and commons, in common council assembled, shall from time to time direct; and the said commissioners or the major part of them who shall be present, such number present not being less than three, at their meetings to be holden as aforesaid, are hereby authorized and empowered to determine all such actions and causes as are herein-after mentioned, and to give such judgments, and make such orders and decrees therein, and to award execution thereupon, with the costs (such costs to be in the discretion of the said court as to the party by or to whom the same shall either wholly or in part be paid), against the goods and chattels or against the body or bodies of all and every the person and persons against whom they shall

No. III.
5 & 6 W. 4,
c. 94.

Number of
commissioners
to be present.

In default of a
sufficient num-
ber of commis-
sioners attend-
ing, the assist-
ance of other
commissioners
not in rotation
to be called for.

In case suffi-
cient number
of commis-
sioners do not
attend, court
may be ad-
journed.

Qualification of
commissioners.

Acts of com-
missioners good
before convic-
tion.

Commissioners
to take the fol-
lowing oath.

give any such judgment, or make any order or decree, as to them shall seem just in law or equity.

V. Provided always, That on the decision of each and every action, cause, or question for the recovery of any sum not exceeding forty shillings three at least of the said commissioners shall be present in court; and on the decision of each and every action, cause, or question for the recovery of any sum exceeding forty shillings, and not exceeding five pounds, five at least of the said commissioners shall be present in court; and on the decision of each and every action, cause, or question for the recovery of any sum exceeding five pounds, seven at least of the said commissioners shall be present in court.

VI. That if at any meeting of the said commissioners a sufficient number of them shall not be present it shall be lawful for such commissioners or commissioner as shall be then in attendance, or if there be no such commissioner, then for the clerk of the said court for the time being, or his assistants, to call for and use his and their best endeavours to obtain the assistance of any other commissioner or commissioners who is, are, or shall be duly qualified and authorized to act in the said court for any other month; and in every such case it shall be lawful for such assistant commissioner or commissioners to act in the execution of the powers and authorities given by this act in the same manner as if such commissioner or commissioners had been appointed for the then current month.

VII. That in case a sufficient number of the said commissioners shall not be present to act in the execution of this act, as is herein directed, on any of the days appointed or to be appointed for holding the said court, then and in every such case it shall be lawful for any of the said commissioners who shall be present, and if no commissioner be present it shall be lawful for the said clerk or his assistants for the time being, to adjourn the said court to the next day of meeting, or to some earlier day.

VIII. That no person shall be qualified to act as a commissioner in the execution of this act (except the said mayor, aldermen, and common council,) unless he shall at the time of acting be a householder within the jurisdiction of the said court, and possessed of property, real or personal, of the value of one thousand pounds above all charges and incumbrances whatsoever; and if any person (except as aforesaid), not being qualified as aforesaid, shall act as a commissioner in the execution of this act, or not having taken the oath herein-after mentioned, or if any commissioner shall act in any action, question, or matter in which he shall be in any manner concerned or interested, every such person shall for every such offence forfeit and pay the sum of fifty pounds, together with full costs of suit, to any person or persons who shall sue for the same, to be recovered in any of his Majesty's courts of record at Westminster by action of debt or on the case, or by bill, plaint, or information, wherein no essoign or protection shall be allowed; and in every such action, bill, plaint, or information the proof of such qualification shall lie on the defendant, and it shall be sufficient for the plaintiff or prosecutor to prove that the person so sued or prosecuted had acted as a commissioner in the execution of this act: Provided nevertheless, that all judgments, orders, decrees, acts, and proceedings of all and every person and persons acting as a commissioner or commissioners in execution of this act, though not duly qualified as aforesaid, previously to his or their being convicted of such offence, shall, notwithstanding such offence, be as valid and effectual as if such person or persons had been duly qualified according to the directions of this act.

IX. That no person shall be capable of acting as a commissioner in the execution of any of the powers and authorities given by this act after the thirtieth day of September one thousand eight hundred and thirty-five (except the power hereby given of administering oaths to commissioners) until he shall have taken an oath to the following effect; (that is to say,)

' I A. B. do swear, That I am possessed, for my own use and benefit, of estates or property of the clear amount or value of one thousand pounds above all incumbrances, and that I will faithfully, impartially, and honestly, according to the best of my skill and knowledge, execute the several powers and trusts reposed in me as a commissioner of the court of requests in and for the city of London, conformably to the directions and true intent and meaning of an act passed in the

' year of the reign of king William the fourth, intituled *An Act* [*here insert the Title of this Act*], and that without favour or affection, prejudice or malice.

So help me GOD.'

No. III.
5 & 6 W. 4.,
c. 94.

Which oath shall and may be administered to the said commissioners respectively by the clerk of the said court, or his assistants, before one or more of the said commissioners; and they the said commissioners shall and are hereby required (after taking the said oath) to sign or subscribe their respective names upon a roll or rolls of parchment to be provided for that purpose, with the said oath written or printed thereon; and such roll or rolls shall be carefully kept among the proceedings of the said court.

X. That no commissioner of the said court shall be capable of acting as a commissioner on the hearing or determining of any action, cause, question, or matter in which he shall be a party, or in anywise concerned or interested, or in making any order, decree, or judgment thereon. Commissioners not to act when interested.

XI. That no commissioner of the said court shall directly or indirectly be concerned or interested in the supplying of any articles for the use of the said court, or in any repairs, improvements, fittings, or furniture of the same, or in any contract or contracts for the supplying any such articles or performing such works respectively; and that every such person shall for every such offence forfeit and pay the sum of one hundred pounds to any person or persons who shall sue for the same, to be recovered in any of his Majesty's courts of record at Westminster by action of debt or on the case, or by bill, suit, or information, wherein no essoin or protection shall be allowed. No commissioner to be concerned in the supply of any articles for the use of the court.

XII. That the said commissioners shall and they are hereby required to make or cause to be made regular entries in a book or books to be provided by them for that purpose of all judgments, acts, orders, directions, regulations, and proceedings of them the said commissioners relative to the execution of the several powers and authorities vested in them by this act, in the same manner as such entries have heretofore been made; and such book and books shall be allowed to be read in evidence in proof of the proceedings of the said court in every court whatsoever. Commissioners to enter their proceedings in a book.

XIII. That the present clerk, assistant clerks, and other officers of the said court nominated or appointed before the passing of this act, shall hold and enjoy their several and respective offices and employments until he or they shall be removed therefrom respectively; and such clerk, assistant clerks, and other officers and servants shall be subject to the like pains and penalties and power of removal, and to the like rules and regulations, as if he and they had been nominated and appointed by virtue of this act. Present officers to continue until removed.

XIV. That it shall be lawful for the said mayor, aldermen, and commons, in common council assembled, from time to time at their discretion to remove or suspend the present or any future clerks, assistants, or other inferior officers of the said court, or any of them, for misbehaviour in their respective offices, or any other cause. Power to remove clerks, &c.

XV. That if it shall at any time appear necessary to the said mayor, aldermen, and commons, in common council assembled, from the increase of the business of the said court, or for any other reason which they may think sufficient, that more assistants to the clerk of the said court are wanting, it shall be lawful for the said mayor, aldermen, and commons, in common council assembled, from time to time to appoint any such additional assistants or other inferior officers who may appear to them to be necessary for better carrying into execution the purposes Power to appoint additional clerks, &c.

No. III.
5 & 6 W. 4
c. 94.

Power to remove beadles or serjeants.

Appointment of new clerks in case of death, &c.

Appointment of new beadles or serjeants in case of death, &c.

Clerk's duties.

Duty of officers.

What debts shall be decided by the commissioners.

Certain debts to which this act is not to extend.

Statute of limitations may be pleaded.

of this act, and also from time to time to reduce the number of such assistants or other inferior officers according to the discretion of the said mayor, aldermen, and commons, in common council assembled.

XVI. That it shall be lawful for the court of mayor and aldermen of the said city of London from time to time at their discretion to remove or suspend the present or any future beadles or serjeants, or any of them, for misbehaviour in their respective offices, or any other cause.

XVII. That it shall be lawful for the said mayor, aldermen, and commons in common council assembled, upon the death, removal, or resignation of any clerk, assistant, or other inferior officer of the said court of requests, from time to time, when and so often as such death, resignation, or removal shall happen, to elect another person or persons in the room or stead of every such clerk, assistant, or other inferior officer so dying or resigning or removed as aforesaid.

XVIII. That it shall be lawful for the said court of mayor and aldermen, upon the death, removal, or resignation of any beadle or serjeant of the said court of requests, from time to time, when and so often as such death, resignation, or removal shall happen, to elect another person or persons in the room or stead of every such beadle or serjeant so dying or resigning or removed as aforesaid.

XIX. That the clerk of the said court and his assistants, and every or any of them, are and is hereby empowered and required to issue all summonses, warrants, precepts, and executions, and to register all orders, decrees, and judgments of the said court, and to do all such acts, matters, and things as are directed or required to be done by the said clerks by virtue of this act.

XX. That the beadles, serjeants, or officers of the said court shall serve all summonses, and execute such orders, warrants, precepts, and executions, and do and perform all such other acts, matters, and things, as may be required to be done by them respectively by virtue of this act.

XXI. That it shall be lawful for the said commissioners and they are hereby empowered and enabled to decide and determine all disputes and differences between party and party for any sum of money not exceeding ten pounds in all actions or causes of debt, except as hereinafter is mentioned.

XXII. Provided always, That nothing in this act contained shall extend or be construed to extend so as to enable the said court to determine the right or title to any lands, tenements, or hereditaments, or real estates whatsoever, or to judge, determine, or decide on any debt where the title of the freehold or lease for years, not being a lease by parol, of any lands, tenements, or hereditaments, or of any chattels real whatsoever, shall be brought or come in question; or to judge, determine, or decide on any debt which shall arise by reason of the occupation of lands, tenements, or hereditaments situate elsewhere than within the jurisdiction of the said court, or for any sum being the balance of any account originally exceeding ten pounds, nor to any other debt which shall arise by reason of any cause concerning testament or matrimony, or any thing concerning or properly belonging to the ecclesiastical court, or for or concerning any agreement by way of composition by or by way of retainer of tithes, or for or by reason of any bye law, or to any debt for tolls or customs due to any corporation or company, or in anywise relating to the franchises, privileges, or chartered rights of the mayor and commonalty and citizens of the city of London, or other bodies politic or corporate, or any premium or any policy of insurance.

XXIII. And for removing all doubts whether the statute of limitations may be pleaded in the said court of requests, be it further enacted and declared, That all defendants in the said court shall be allowed to plead or claim any statute of limitations now in force or hereafter to be made; and every defendant so pleading or claiming shall have and receive such and the like advantage and relief thereby as such defendant would have been entitled to in case this act had not been made, and he, she, or they had been sued for the same debt or other cause of action

in any of his Majesty's courts at Westminster, or any other court, and had there pleaded such statute in bar to the action or suit.

XXIV. That in every case where a debt not exceeding ten pounds shall be contracted for necessities by any person under the age of twenty-one years, and residing or inhabiting or employed as clerk, officer, book-keeper, journeyman, shopman, or labourer, or otherwise seeking or obtaining a livelihood within the city of London or the liberties thereof, and such debt would be recoverable against such person by an action for the same in any of his Majesty's courts at Westminster, it shall be lawful for the person or persons to whom such debt shall be due to sue for and recover such debt in the said court of requests, in the same manner as if the person by whom the debt shall be contracted were of full age; and that in every case where any wages or other debt or debts not exceeding the sum of ten pounds shall be due to any menial servant or other person under the age of twenty-one years, it shall be lawful for such servant or other person to sue for and recover such debt or debts in the said court of requests, in the same manner as if he or she were of full age; and the said commissioners are hereby fully authorized and required in such case to take cognizance of and proceed concerning such debt in the same manner, and shall have such and the same powers in regard thereto, as if the plaintiff and defendant were of full age.

XXV. Provided always, That nothing herein contained shall extend or be construed to extend to prevent or restrain any person or persons from making distress or bringing any action or actions whatsoever for rent, and thereby recovering such rent with costs, although the same rent shall not amount to the sum of ten pounds.

XXVI. Provided always, That nothing herein contained shall extend or be construed to extend so as to enable any plaintiff to split or divide any cause of action for recovery of any debt or demand where the whole sum or value that shall appear to be due and owing shall amount to more than ten pounds, in order that the same may be made the ground of two or more actions, causes, or matters in controversy, for the purpose of bringing such actions, causes, or matters within the jurisdiction of the said court of requests; and in case it shall appear to the said commissioners that any plaintiff shall have so split or divided his or her cause of action, debt, or demand as aforesaid, except to bring it within the power herein-after contained, then and in every such case the said commissioners shall and they are hereby required to dismiss, with costs, every such action, cause, or matter so split or divided; but such dismissal shall not hinder or prevent such plaintiff from proceeding for the recovery of his or her debt in any of his Majesty's courts of record at Westminster, or in such other manner as he or she might have lawfully proceeded if this act had not been made

XXVII. Provided also, That in case any plaintiff who shall have so split or divided such his or her cause of action, debt, or demand as aforesaid, or to whom the whole sum that shall appear to be due shall exceed the sum of ten pounds, shall declare to the commissioners that he or she is willing to accept such sum of money as the said court is in and by this act enabled to adjudge and order to be paid in full of the whole of such debt or demand in such action or cause, then and in every such case the said commissioners shall and may, on such plaintiff adducing proof respecting his or her debt or demand to the satisfaction of the said commissioners, adjudge, decree, and order such sum to the plaintiff, not amounting to ten pounds, as to the said commissioners shall seem just and reasonable; and such sum shall, in the order, judgment, or decree to be given by the said commissioners, be declared to be and shall be in full discharge of all demands from the defendant to the plaintiff in such action, cause, or matter in controversy, and the plaintiff shall be precluded from afterwards proceeding in any other court for or on account of such debt.

XXVIII. That from and after the said thirtieth day of September one

No. III.
5 & 6 W. 4,
c. 94.

Power to sue infants in the court of requests for debts contracted for necessities.

This act not to prevent any distress or action for rent.

For preventing the splitting or dividing of debts.

For empowering plaintiffs to reduce their demand to 10l. provided they accept the same in full for their respective debts.

Debtors within jurisdiction

No. I.
3 & 4 W. 4,
c. 22.

Fines, &c. may
be levied by
warrant of
commissioners
of sewers.

spective hundreds, parishes, townships, liberties, districts, or places within the jurisdiction of the said respective courts, shall and they are hereby authorized and required to obey and execute all and every the orders, warrants, precepts, or other process which may be to them directed by the said commissioners; which said commissioners respectively are hereby authorized to direct such their orders, warrants, precepts, or other process to such chief or petty constables, headboroughs, tithing-men, and other peace officers accordingly.

LIII. That no fine, americiament, penalty, or forfeiture which from and after the passing of this act shall be set or imposed by any commissioners of sewers upon any person, body politic or corporate, for not cleansing, scouring, repairing, or maintaining, or for obstructing or injuring, any of the walls, ditches, banks, gutters, sewers, gotes, bridges, and streams, or for any other cause, matter, or thing, within the jurisdiction of the said commissioners respectively, shall hereafter be returned or estreated into the court of exchequer; but that the same fines, americiaments, penalties, and forfeitures, and all penalties and forfeitures imposed by this act, except as herein otherwise provided, shall and may be demanded and received by the treasurer, clerk, expeditor, or other person appointed by the said commissioners to receive the same, and if not paid upon demand shall and may be levied by distress and sale of the goods and chattels of the person, body politic or corporate, upon whom such fines, americiaments, penalties, or forfeitures shall or may be so set or imposed, by warrant under the hands and seals of the said commissioners, or any six or more of them, together with the costs and charges of such distress and sale, rendering the overplus (if any) to the party or parties entitled thereto; which warrant the said commissioners are hereby authorized to issue; and the said fines, americiaments, penalties, and forfeitures, when so received or levied, shall and may be applied by the said commissioners to such and the same uses and purposes as the monies raised, levied, or set apart by the said commissioners for defraying and reimbursing the general expences of executing the commission of sewers under which they shall or may act or may be applicable.

Form of war-
rant for levying
fines, &c.

LIV. That the warrant authorizing the levying of any such fine, americiament, penalty, or forfeiture payable by virtue of this act may be in the words or to the effect following:

our bailiff of sewers,

‘ To
‘ and to
‘ and
‘ our collectors, and to each and every of them, and to all con-
‘ stables and other peace officers.

‘ WHEREAS at the court [or session] of sewers holden for the limits
‘ [here state the name of the commission] on the day of
‘ last, A. B. of in the county of
‘ carpenter, was fined [amerced, or otherwise, as the
‘ case may be] in the sum of which sum it hath
‘ this day been proved to us, the undersigned, being six or more of the
‘ justices and commissioners of sewers for the aforesaid limits, by the
‘ oath of duly appointed to receive the
‘ same fine [americiament, penalty, or forfeiture, as the case may be] that
‘ the said hath neglected or omitted
‘ to pay when demanded of him: These are therefore to authorize and
‘ command you, any or either of you, to levy the said sum of
‘ by distress and sale of the goods and chattels of
‘ the said together with the costs and
‘ charges of such distress and sale, rendering the overplus, if any, to
‘ the said Given under our hands and
‘ seals the day of in the year
‘ of our Lord one thousand eight hundred and .

Commissioners
may decree and
assess costs;

LV. That in all and singular the orders, decrees, or other proceedings hereafter to be made touching or concerning any matter or thing within

decree therein, or for any other purpose requisite to the execution of this act.

No. III.
5 & 6 W. 4,
c. 94.

XXIX. That no evidence shall be permitted to be given by the plaintiff on the trial of any such action or cause as aforesaid of any demand or cause of action except such as is stated in the said summons hereby directed to be given; nor shall any evidence be admitted on the behalf of the defendant or defendants on the trial of such action or cause of any demand he, she, or they may have on the plaintiff or plaintiffs in the nature of a set-off, to lessen or discharge himself, herself, or themselves from the said action or cause, unless notice thereof in writing shall have been given to such plaintiff or plaintiffs by personal service, or by leaving the same at his, her, or their dwelling-house, warehouse, wharf, quay, lodging, place of abode, shop, shed, stall, stand, or other place of dealing, trading, or working, previous to the day whereon such matter or cause shall be heard or tried. Restricting evidence on trial of causes and actions.

XXX. Provided always, That no orders, decrees, judgments, or proceedings made by the said commissioners in pursuance of this act shall be removed or removable into any other court by certiorari, or otherwise howsoever. No action reeceedings made by the said commissioners in pursuance of this act shall be removable by certiorari.

XXXI. That where any debt shall be due, owing, or demanded from any two or more persons jointly, by reason or on account of such persons being partners in trade, the like service of any such summons as aforesaid on or for any one of such two or more partners or persons shall be as good and sufficient in law as if each of them were separately summoned as aforesaid. How persons may be summoned from whom debt shall be jointly due.

XXXII. That no privilege shall be allowed to exempt any person from the jurisdiction of the said court of requests on account of his being an attorney or solicitor or any other officer of any court of law or equity at Westminster, or of any other court whatsoever; but that all attornies, solicitors, and officers shall be subject to the several processes, orders, judgments, and executions of the said court of requests, in the same manner as any other persons are subject to the same by this act or otherwise. Attornies not exempt from the jurisdiction of the court.

XXXIII. That it shall be lawful for any plaintiff or plaintiffs, defendant or defendants in any action, cause, or question hereafter depending in the said court of requests, to serve or cause to be served any person or persons residing within the jurisdiction of the said court, or within five miles from the Guildhall of the said city of London, with a summons to be issued by the clerk of the said court or his assistants, either personally or by leaving the same at the last or most usual place or respective places of abode of such person or persons, to appear as a witness or witnesses to give evidence in the said court in or concerning any such action, cause, or question; and in case any person residing or being within the jurisdiction of the said court, after being duly served as aforesaid with such summons, shall refuse or neglect to appear pursuant to such summons, due proof being made of the service of such summons, and no sufficient cause for his or her absence or non-appearance being shown to the satisfaction of the said court, or if such person or persons so summoned and appearing shall refuse to be examined upon oath and to give evidence as aforesaid before such commissioners, according to the true intent and meaning of this act, then and in any of the said cases every such person so neglecting or refusing shall forfeit and pay for every such offence not exceeding the sum of forty shillings, to be awarded by the said commissioners; and if any person so offending shall not forthwith pay into the said court the penalty or forfeiture so imposed upon him, her, or them, it shall be lawful for the said commissioners to order and cause such person or persons to be apprehended by any of the beadles, sergeants, or officers of the said court, and committed to any prison in the said city, there to remain for any space of time not exceeding one calendar month, unless such penalty or forfeiture shall be sooner paid; and every such penalty or forfeiture as last mentioned which shall be received For compelling the attendance of witnesses.

No. III.
5 & 6 W 4,
c. 94.

by virtue of this act shall thereupon (after deducting the reasonable costs and charges of apprehending and taking such person or persons so refusing or neglecting) be paid over into the hands of the churchwardens or overseers of the poor of the parish wherein the person or persons respectively paying the same shall, at the time of his, her, or their neglect or refusal to appear or give evidence as aforesaid, inhabit, dwell, or seek a livelihood, and shall be applied towards the support and maintenance of the poor of the said parish.

For adjourning
the determina-
tion of any
cause to a fu-
ture day.

XXXIV. That in case and when and so often as for the want of the attendance of any witness or witnesses, or for want of any deeds, instruments, writings, or other documents, or written, printed, or other evidence, or on account of illness or absence of any parties or otherwise, the said commissioners shall be unable to examine and determine to their full satisfaction any particular action, cause, or matter in controversy coming before them in the said court, then and in every such case it shall be lawful for the said commissioners to adjourn or postpone such cause or matter in controversy from time to time as they shall think proper and direct: Provided always, That at the time of such adjournment or postponement a day shall be fixed for the further hearing of such action, cause, or matter.

For punishing
persons guilty
of perjury.

XXXV. That in case any person or persons shall make oath or give evidence in any action, cause, or question depending in the said court of requests, whereby he, she, or they shall commit wilful and corrupt perjury, and thereof be duly convicted according to law, then every such person or persons shall incur and suffer the like pains and penalties as any other person or persons convicted of wilful and corrupt perjury according to the laws and statutes of this realm.

If any debtor
does not appear
when sum-
moned com-
missioners may
proceed.

XXXVI. That if any debtor or debtors who shall have been duly summoned as aforesaid shall not appear, either in person, or by his, her, or their agent, or some other person on his, her, or their behalf, before the said court at the time and place mentioned in the said summons, then and in every such case it shall be lawful for the said commissioners assembled in the said court, after proof made upon oath of the service of the said summons, to hear the action or cause on the part of the plaintiff or plaintiffs only, and to make such order, attachment, decree, or judgment therein as to them shall seem just and equitable, and to appoint some certain time and place, according to their discretion, for such debtor or debtors to show cause before the said commissioners against such order, decree, or judgment so pronounced *ex parte* as aforesaid, at which time and place, or any subsequent court or courts, it shall be lawful for the said commissioners, whether such debtor or debtors shall then appear and show cause or not, upon proof upon oath made that a copy of such order, decree, or judgment had been given to such debtor or debtors, or left with his, her, or their servant or other person belonging to him, her, or them, or the master or mistress of the house at the dwelling-house, wharf, quay, lodging, place of abode, warehouse, accounting-house, chambers, office, shop, shed, stall, stand, or other place of dealing, trading, or working, or resorting of such debtor or debtors, being within the jurisdiction of the said court, to make and pronounce such final order, judgment, or decree therein, and to award such reasonable costs of suit as to them shall seem most agreeable to equity and good conscience.

Clerk not to
issue summons
until deposit is
made.

XXXVII. That no clerk of the said court shall issue any summons for any debt exceeding twenty shillings unless the plaintiff shall, at the time of issuing out such summons, deposit with the clerk or clerks of the said court for every debt exceeding twenty shillings and not exceeding forty shillings the sum of two shillings, and for every debt exceeding forty shillings and not exceeding sixty shillings the sum of five shillings, and for every debt exceeding sixty shillings and not exceeding one hundred shillings the sum of seven shillings and sixpence, and for every debt exceeding one hundred shillings the sum of ten shillings; and if upon the day of the return of any such summons, or at any continuation

or adjournment of the said court, or of the action or cause for or on account of which the said summons shall have been issued, the plaintiff or plaintiffs shall not appear, either in person, or by his, her, or their agent, or some other person on his, her, or their behalf, or appearing shall not make proof of his, her, or their demand to the satisfaction of the said court, but shall become nonsuited, or judgment shall be pronounced against him, her, or them by the said court, then and in every such case it shall be lawful for the said commissioners present in court, or any three of them, and they are hereby required, to award to the defendant or defendants a part or the whole of such deposit money by way of costs and satisfaction for his, her, or their trouble and attendance, together with such further sum as they the said commissioners in their discretion shall think fit, and to order and compel the plaintiff or plaintiffs to pay such further sum by such ways and means as any debt or debts ordered or decreed by the said court can or may be recovered; and if there shall be any overplus remaining in the hands of the said clerk after the sum or sums awarded to the defendant or defendants shall have been paid, or if the plaintiff or plaintiffs shall, on the return day of any such summons, appear and make proof of his, her, or their demands to the satisfaction of the said court, or that the debt has been settled or paid, then and in every such case such overplus or sum or sums of money so deposited with the said clerk as aforesaid shall be by the said clerk returned and repaid into the hands of such plaintiff or plaintiffs accordingly: Provided also, that in case such plaintiff or plaintiffs at the time of such judgment of the said commissioners, or at any time afterwards, or his, her, or their goods and chattels, shall be out of the jurisdiction of the said court, then it shall be lawful for any beadle, serjeant, or other officer of the said court to apply to any justice of the peace acting for the said city of London, and upon proof being made upon oath (which oath such justice is hereby authorized and required to administer) of the precept of execution having issued against such person or persons, or effects, as the case may be, such justice of the peace is hereby authorized and required to sign and indorse the said precept of execution, and thereupon the said beadle, serjeant, or other officer shall have the like powers and authorities to execute the said precept as are herein-after provided in case any defendant or defendants, or his, her, or their goods and chattels, shall, after final judgment given in the said court, be removed out of the jurisdiction thereof.

No. III.
5 & 6 W. 4,
c. 94.

XXXVIII. That in case it shall at any time during the hearing of any action or cause in the said court appear by the oath of any person or persons to the satisfaction of the major part of the commissioners present at the court at which such action or cause shall be heard, that such debtor or debtors is or are unable from sickness or unavoidable accident to pay and discharge the debt or debts for which he, she, or they shall have been so summoned, then it shall be lawful for the major part of the said commissioners assembled at any such court or courts as aforesaid to suspend or supersede the proceedings in such action or cause until it shall, upon like proof as aforesaid, appear to the court that such debtor or debtors shall be able to pay such debt or debts, and then to proceed again in manner aforesaid; any thing herein contained to the contrary notwithstanding.

XXXIX. That in any action, cause, or question in which the commissioners of the said court shall have made an order or decree for the payment of money it shall be lawful for the said commissioners present in court immediately, or in case of default or failure of payment thereof at the times and in the manner thereby directed, to award execution against the goods and chattels of the party against whom such order or decree shall be made, and thereupon it shall be lawful for the clerk of the said court or his assistants, at the request of the party prosecuting such order or decree for the payment of money, to issue an execution under his hand to one of the beadles, serjeants, or officers of the said court, who by virtue of such precept, issued upon execution awarded against the

Commissioners may suspend proceedings in cases where debtors are ill or unable to pay the debt.

Commissioners may award execution against their goods.

No. III.
5 & 6 W. 4,
c. 94.

For regulating
the sale of
goods taken in
execution.

Costs of dis-
tress, 57 G. 3,
c. 93.

Execution
against the
body may issue
after an execu-
tion against the
goods.

In case parties
shall secrete
their goods or
abscond.

goods and chattels of such party, shall and may and is hereby empowered to levy, by distress and sale of the goods and chattels of such party being within the jurisdiction of the said court, such sum and sums of money and costs as shall be so ordered, decreed, or adjudged.

XL. Provided always, That no sale of any goods which shall be taken under or by virtue of any precept or execution to be issued in manner aforesaid shall take place or be made until after the expiration of eight days at least next following the day on which such goods shall have been so taken; and in the meantime and until any such sale shall be made the goods taken by virtue of any precept as aforesaid shall be deposited by the beadle, serjeant, or other officer taking or levying the same in some fit and convenient place or places to be appointed by the said mayor, aldermen, and commons, in common council assembled: Provided also, That it shall be lawful for the said mayor, aldermen, and commons, in common council assembled, from time to time, and when and as often as they shall think proper, to nominate and appoint such and so many sworn brokers and appraisers for the purpose of selling or valuing any goods, chattels, or effects taken in execution under or by virtue of this act as shall appear to the said mayor, aldermen, and commons, in common council assembled, to be necessary or proper.

XLI. Provided always, That the costs and charges levied for the distress shall not exceed the costs and charges specified in an act passed in the fifty-seventh year of the reign of king George the third, intitled *An Act to regulate the Costs of Distresses levied for Payment of small Rents*.

XLII. That if the said beadle, serjeant, or officer to whom such precept shall have been issued shall certify and make a return thereon in writing under his hand, that the said party or parties against the goods of whom execution shall have been awarded hath or have no goods or chattels, or not sufficient goods or chattels whereon or whereby such levy can be made, then and in every such case it shall be lawful for the said commissioners to award execution against the body or bodies of the party or parties against whom such order or decree shall be made for the whole or so much of such sum or sums of money and costs so ordered, decreed, or adjudged as shall then remain unsatisfied; and thereupon it shall be lawful for the proper officer or officers of the said court, at the prayer of the party prosecuting such order or decree for the payment of money, to issue a precept under his hand to one of the beadles, serjeants, or officers of the said court, who shall and may and is hereby empowered to take such party or parties, who shall remain in custody until he, she, or they shall perform and obey such order, decree, or judgment, for the space of time herein in that behalf particularly directed.

XLIII. That if the party against whose goods or body any such execution shall be awarded, and process thereupon shall issue, shall, by secreting or removing his or her goods or chattels, or by absconding, or by any other means, prevent or evade the service or effect of any such execution, it shall be lawful for the said commissioners present in the said court, upon due proof thereof made before them by the oath or oaths of one or more credible witness or witnesses, at their discretion to award further execution either against the body or goods and chattels of such party, and process shall issue thereupon, and be served by one of the beadles, serjeants, or officers of the said court in manner aforesaid, until the plaintiff or plaintiffs shall be fully paid and satisfied; and it shall be lawful for the said commissioners from time to time, in case they shall think fit, for the ease and convenience of the defendant or defendants, and they are hereby authorized and empowered to order, decree, or adjudge any debt due to the plaintiff or plaintiffs to be paid by several payments or instalments, and under such terms and conditions as may appear reasonable and just to them the said commissioners, for the ease of the defendant or defendants, and the security of the plaintiff or plaintiffs; and it shall be lawful for the said commissioners present in court, in case any default or failure of any such payments or instalments so

ordered, decreed, adjudged, and directed shall afterwards be made, and they are hereby authorised and empowered, at the instance of the plaintiff or plaintiffs, and upon due proof of the said default or failure, to award execution against the said defendant or defendants, or against any other person or persons within the jurisdiction of this act who may have given security to the said plaintiff or plaintiffs, under directions of the said commissioners, for the payment of such payments or instalments in manner aforesaid, for the whole debt or such part thereof as shall then remain unpaid, together with such further costs as to them shall seem just and reasonable; and such debt or such part thereof and such further costs shall be recovered by the same ways and means as are herein provided for the recovery of the debt and costs first decreed.

No. III.
5 & 6 W. 4,
c. 94.

XLIV. That it shall not be lawful for the said commissioners to issue any process against the body or bodies of any person or persons in any action, cause, or question where the party entitled to the benefit of any order, judgment, or decree shall at the same time have obtained any warrant or process against the goods and chattels of the same person or persons, unless there shall be a return of no goods to such warrant, or unless the goods sold under the execution shall not be sufficient to defray the sum and sums of money and costs so ordered, decreed, and adjudged, in either of which cases any process against the body or bodies of any such person or persons shall be issued only for the deficiency.

XLV. That in all cases where a final decree or judgment for any sum or sums of money shall have been obtained in the said court it shall be lawful for any beadle, serjeant, or officer of the said court to apply to any justice of the peace acting for the division or place to which such defendant or defendants, or his, her, or their goods and chattels, shall be removed; and upon proof being made upon oath (which oath such justice is hereby authorized and required to administer) of the precept of execution having issued against the person or persons or effects, as the case may be, of the defendant or defendants, and that the person or persons, goods and chattels of such defendant or defendants, is or are not to be found within the jurisdiction of the said court, but is or are believed to be within the county or district where such justice of the peace shall act, such justice of the peace is hereby authorized and required to sign or indorse his name upon the back of the said precept of execution, and thereupon the beadle, serjeant, or other officer of the said court shall be and is hereby authorized and empowered to take and seize the person and persons or effects of the defendant or defendants, where-soever the same shall be found, within the county or district for which such justice of the peace who shall have so signed or indorsed the said precept of execution as aforesaid shall act, and to deal therewith in like manner as if the same had been taken or seized within the jurisdiction of the said court; and all constables and other peace officers shall and they are hereby required to be aiding and assisting within their respective districts in the execution of the said precept so indorsed as aforesaid.

XLVI. That in or upon each and every precept to be issued upon execution awarded against the goods and chattels or body of any person or persons whomsoever, the clerk of the said court or his assistants shall insert or indorse the sum or sums of money and the costs so ordered, decreed, and adjudged; and if the party or parties against whom such execution shall be awarded respectively shall, before an actual sale of the goods and chattels, or before he, she, or they is or are apprehended, or before the expiration of the term of his, her, or their imprisonment, as herein mentioned, pay or cause to be paid or tendered unto the clerk of the said court or his assistants, or to the officer holding the execution, or, in case such party or parties shall be in prison, to the gaoler of the prison, such sum or sums of money as aforesaid, or such part thereof as the plaintiff or plaintiffs shall agree to accept in full for his, her, or their debt or debts, together with the costs, then and in every such case the execution shall be superseded, and the body or

Process not to issue against the body and chattels of the same person at the same time.

If defendants remove out of the jurisdiction of the court to avoid execution, a justice of the peace may indorse the precept, &c.

Clerk to insert or indorse debt and costs on precepts, and if paid to the clerk of court before sale, execution to be superseded.

No. III.
5 & 6 W. 4,
c. 94.

Limitation of
the times of im-
prisonment of
debtors.

If any debtor
conceal money
or goods, the
time of his im-
prisonment
shall be ex-
tended.

To be im-
prisoned the li-
mited time for
the first execu-
tion, and after-
wards half the
limited time.

Fees to be
taken.

goods and chattels of the said party or parties shall be discharged and set at liberty, and the officer holding the execution, or the gaoler, (as the case may be,) shall immediately transmit such sum or sums of money to the clerk of the said court.

XLVII. That no person or persons whomsoever, being a debtor or debtors, defendant or defendants, who shall be committed to gaol or prison by order of the said court of requests, shall be kept or continued in custody on any pretence whatsoever (except in the cases herein-after otherwise provided for) for any longer space or spaces of time, from the time of his, her, or their commitment to prison, than is or are herein-after limited; that is to say, where the debt, exclusive of costs, shall amount to twenty shillings and no more, then he, she, or they shall be kept or continued in custody eight days, and where the debt, exclusive of costs, shall be more than the sum of twenty shillings, he, she, or they shall be kept or continued in custody as many days as shall be equal to the number of sums of two shillings and sixpence in the amount of such debt, unless the plaintiff or plaintiffs shall be sooner satisfied, and signify the same in writing under his, her, or their hand or hands to the officer who shall have executed the process, which officer, upon producing the same to the gaoler, shall thereupon forthwith discharge such debtor or debtors out of custody.

XLVIII. And in order the more effectually to prevent persons sum-moned for debts or demands to the said court from fraudulently concealing their money, goods, or effects; be it further enacted, That in case, upon the summons of any person for any debt or demand before the said court, information of such fraudulent concealment shall be given, such court shall have power to hear evidence as to the fact; and in case it shall be proved to their satisfaction upon the oath of one or more witness or witnesses, then and in every such case it shall be lawful for the said court to extend the aforesaid time of imprisonment of such debtor to any period in addition thereto not exceeding three calendar months.

XLIX. Provided always nevertheless, That all and every person and persons who shall be taken in execution under or by virtue of any process issuing from or out of the said court, and who at the time of being taken into custody, or during his, her, or their imprisonment, shall have more than one execution against him, her, or them in the said court, shall be imprisoned the limited time for the first execution, and afterwards half the limited time only for and in respect of each other execution; (that is to say,) after the limited time is expired on the first execution the imprisonment shall commence on the second execution, and continue half the limited time only, and after half the limited time is expired on the second execution the imprisonment shall commence on the third execution, and so on until he, she, or they shall have been imprisoned the limited time for the first execution, and afterwards half the limited time only for and in respect of each other separate execution to be issued against him, her, or them in the said court previously to his, her, or their being taken into custody, or during his, her, or their imprisonment; any law, statute, or usage to the contrary notwithstanding.

L. That such fees shall be taken by the said clerks, beadles, serjeants, and other officers of the said court, for their several and respective services in the execution of this act, as shall from time to time be appointed and fixed for that purpose by the mayor, aldermen, and commons of the said city of London, in common council assembled, in like manner as the fees of the officers of the said court of requests have heretofore been regulated and fixed by them; and the said mayor, aldermen, and commons, in common council assembled, shall and they are hereby required to cause a table of such fees as for the time being shall be appointed to be taken as aforesaid to be affixed in some conspicuous place of the court or place of meeting of the said commissioners, in order that all persons concerned may be enabled to peruse the same: Provided always, That such table of fees shall be allowed by one or more of the

justices or barons of his Majesty's courts of record at Westminster before the same shall be used or acted upon.

No. III.
5 & 6 W. 4,
c. 94.

LI. That the keeper or keepers for the time being of the prison for debtors of the said city of London shall and he and they is and are hereby required to receive and take into his or their custody respectively all and every person and persons who shall be committed or ordered to stand committed by the said commissioners; and in case the keeper or keepers of the said prison respectively shall neglect or refuse to receive or take into his or their custody any person or persons committed by virtue of this act, or shall, before the expiration of the time for which any person or persons shall be committed to his or their custody, discharge such person or persons out of his or their custody, and wilfully suffer such person or persons to go at large, without a warrant or order for that purpose in writing, signed by the plaintiff or plaintiffs as aforesaid, or in court by the said commissioners or any three or more of them, such keeper or keepers respectively so offending in either of the said cases, and being thereof convicted before one or more of the aldermen of the said city upon the oath of one or more credible witness or witnesses (which oath such alderman and aldermen is and are hereby authorized and required to administer), or upon his or their own confession, shall for every such offence forfeit and pay the debt or debts and costs for which such person or persons shall have been committed to the custody of such keeper or keepers, and also any sum not exceeding twenty pounds, at the discretion of the said alderman or aldermen.

Penalty on
keeper of prison
neglecting his
duty.

LII. That if any beadle or beadles, serjeant or serjeants, or other officer or officers of the said court employed to serve any execution shall, by wilful neglect, omission, or connivance, cause or suffer the party against whom such execution shall be awarded to escape or abscond, or the goods of such party to be carried away or secreted, so that such execution shall not have its due effect, it shall be lawful for the said commissioners, upon complaint, and due proof thereof made upon the oath or oaths of one or more credible witness or witnesses, to order such beadle, serjeant, or officer to pay the sum or sums of money for which such execution was awarded, or such part thereof as the said commissioners may think proper, to the party complaining, and to enforce the payment thereof by the same ways and means as are herein provided for the recovery of their debts; and it shall be lawful for the said commissioners and they are hereby enabled to impose any fine not exceeding twenty pounds for every such offence on such beadle or beadles, serjeant or serjeants, officer or officers, and to levy such fine by distress and sale of the goods and chattels of such beadle or beadles, serjeant or serjeants, or other officer or officers of the said court, rendering the overplus (if any), after deducting such fine, and the costs and charges of such distress and sale, to the owner or owners of such goods and chattels; and such fine, when so levied and recovered, shall be paid to and distributed by the said commissioners in such shares and proportions and in such manner amongst the poor of the several parishes and places within the jurisdiction of the said court as they the said commissioners may think fit and proper.

Penalty on
beadle or ser-
jeant neglect-
ing his duty.

LIII. That if any clerk, beadle, serjeant, or any other officer or servant employed in putting this act or any of the powers thereof in execution, shall exact, take, or accept any fee or reward whatsoever, other than and except such fees as are or shall be appointed and allowed to them respectively as aforesaid, for or on account of any thing done or to be done by virtue of this act, or on any account whatsoever relative to putting this act into execution, every such person so offending shall upon conviction thereof before the said commissioners at any of their meetings, or upon verdict or judgment being had against him in such action as next herein-after mentioned, be for ever incapable of serving or being employed under this act in any office of profit or emolument, and shall, over and above, forfeit and pay the sum of ten pounds to any person or persons who shall sue for the same by action of debt, bill, plaint or in-

Officers taking
any fee besides
the fees allowed
to be dis-
charged and
forfeit 10l.

No. III.
5 & 6, W. 4,
c. 94.

A list to be
made out of
unclaimed
money.

For supporting
the dignity of
the court, and
preventing in-
sults.

Offices of clerk
and treasurer
not to be held
by the same
person.

Recovery and
application of
penalties.

formation in any of his Majesty's courts of record at Westminster, within three calendar months after the offence committed, in which suit no essoin or protection shall be allowed.

LIV. That the clerk to the said commissioners shall and he is hereby required, in the month of June in every year, to make out and lay before the said mayor, aldermen, and commons, in common council assembled, a correct list of all sums of money which shall have been paid into court, and which shall have remained unreclaimed for the space of twelve calendar months or for any longer period next before the making out such list; and the said list shall also contain the names of the parties having paid such sum or sums of money, and also the names of the parties for whom or on whose account the same was or were so paid into court.

LV. And for the more effectually maintaining the dignity and consequence of the said court, and to protect the commissioners, clerks, and officers of the said court from insult, be it further enacted, That if any person or persons shall contemptuously and wilfully insult or abuse all or any of the said commissioners, clerks, or officers of the said court for the time being, during his or their sitting or attendance in the said court, or going to or from the said court, or shall interrupt or obstruct the proceedings of the said court, then and in every such case it shall be lawful for the beadle or beadles, serjeant or serjeants, officer or officers of the said court, with or without the assistance of any other person or persons, by the order of the said commissioners, to take such offender or offenders into custody; and the said commissioners shall then examine into such insult, abuse, or misbehaviour, either from their own view or knowledge of what passed, or by the oath or oaths of one or more credible witness or witnesses; and upon such insult, abuse, or misbehaviour being duly proved as aforesaid it shall be lawful for the said commissioners, and they are hereby authorized and empowered, to impose a fine not exceeding ten pounds for each and every such offence on each and every such offender or offenders and in case of nonpayment forthwith to commit such offender or offenders to the common gaol or house of correction, for any space of time not exceeding one calendar month, unless the said fine or forfeiture shall be sooner paid.

LVI. Provided always, That it shall not be lawful for the said mayor, aldermen, and commons, in common council assembled, to appoint any person who may be appointed a clerk in the execution of this act, or the partner of any such clerk, or the clerk or other person in the service or employ of any such clerk or of his partner, the treasurer for the purposes of this act, or to appoint any person who may be appointed treasurer, or the partner of any such treasurer, or the clerk or other person in the service or employ of any such treasurer or of his partner, a clerk in the said court for the purposes of this act; and if any person shall accept both the offices of clerk and treasurer for the purposes of this act, or if any person being the partner of any such clerk, or the clerk or other person in the service or employ of any such clerk or of his partner, shall accept the office of treasurer, or shall act as deputy of the treasurer, or in any manner officiate for the treasurer, or being the partner of any such treasurer, or the clerk or other person in the service or employ of any such treasurer or of his partner, shall accept the office of clerk in the execution of this act, or shall act as deputy of such clerk, or in any manner officiate for such clerk, every such person so offending shall for every such offence forfeit and pay the sum of one hundred pounds to any person who shall sue for the same, to be recovered, with full costs of suit, in any of his Majesty's courts of record at Westminster, by action of debt or on the case, or by bill, suit, or information, wherein no essoin or protection shall be allowed.

LVII. That all fines, penalties, or forfeitures by virtue of this act imposed or authorized to be imposed (the manner of levying and recovering whereof is not hereby otherwise particularly directed) shall on proof of the offences respectively before any three or more of the com-

No. III.
5 & 6 W. 4,
c. 94.

LIX. That in all cases where any conviction shall be had for any Form of con-
 offence or offences committed against this act the form of conviction viction.
 shall be in the words or to the effect following ; (that is to say,)

P P 2

No. III.
5 & 6 W. 4,
c. 94.

'city of London, [or before
'missioners for the recovery of small debts within the city of London
'and liberties thereof,] of having [*as the offence may be*]; and I [*or we*]
'the said do adjudge him [*her or them*]
'to forfeit and pay for the same the sum of
'given under my hand and seal [*or our hands and seals*] the day and
'year aforesaid.'

Distress not
unlawful for
want of form.

LX. That where any distress shall be made for any sum of money to be levied by virtue of this act the distress itself shall not be deemed unlawful, nor the party or parties making the same be deemed a trespasser or trespassers, on account of any defect or want of form in the information, summons, conviction, warrant of distress, or other proceeding relating thereto, nor shall the party or parties distraining be deemed a trespasser or trespassers *ab initio* on account of any irregularity which shall afterwards be done by the party or parties so distrained, but the person or persons aggrieved by such irregularity shall and may recover full satisfaction for the special damage in an action upon the case.

Proceedings not
to be quashed
for want of
form.

LXI. That no order, verdict, or judgment, or other proceeding, made touching or concerning any of the matters aforesaid, or the conviction of any of the offender or offenders against this act, shall be quashed or vacated for want of form.

Plaintiffs not to
recover without
notice, or after
tender of
amends.

LXII. That no plaintiff or plaintiffs shall recover in any action to be commenced against any person or persons for any thing done in pursuance of this act unless notice in writing shall have been given to the defendant or defendants, and also to the clerk for the time being of the said commissioners, forty-two days before such intended action, signed by the attorney for the plaintiff or plaintiffs, specifying the cause of such action; nor shall the plaintiff or plaintiffs recover in any such action if tender of sufficient amends shall have been made to him, her, or them, or to his, her, or their attorney, by or on the behalf of the defendant or defendants before such action brought; and in case no such tender shall have been made it shall be lawful for the defendant or defendants in any such action, by leave of the court, after such action shall have been brought, at any time before issue joined, to pay into court such sum of money as he, she, or they shall think fit, whereupon such proceedings, order, and judgment shall be made and given in and by such court as in other actions where the defendant is allowed to bring money into court.

Limitation of
actions.

LXIII. Provided always, That no action or suit shall be commenced against any person or persons for any thing done in pursuance of this act after three calendar months next after the fact committed; and every such action or suit shall be brought and tried in the city of London, and not elsewhere; and if any such action shall be brought before forty-two days' notice shall have been given, or after sufficient satisfaction made or tendered as aforesaid, or after the time limited for bringing the same as aforesaid, or shall be brought elsewhere than as aforesaid, then and in every such case the jury shall find for the defendant or defendants; and upon such verdict, or if the plaintiff or plaintiffs shall be nonsuited, or discontinue his, her, or their action or suit after the defendant or defendants shall have appeared, or if upon demurrer judgment shall be given against such plaintiff or plaintiffs, then and in every such case the defendant or defendants shall recover his, her, or their costs, and have such remedy for recovering the same as any defendant hath for costs of suit in other cases by law.

Expences of
obtaining and
passing this act
how to be paid.

LXIV. That the charges and expences attending the obtaining and passing of this act shall be paid and defrayed by, from, and out of the monies which shall from time to time been or hereafter shall be paid in the chamber of London on account of the business transacted in the said court of requests.

Commence-
ment of this act.

LXV. That this act shall commence and take effect from and

after the thirtieth day of September one thousand eight hundred and thirty-five.

No. III.
5 & 6 W. 4,
c. 94.

LXVI. Provided always, That at the expiration of six calendar months next after any general act shall be passed for the recovery of small debts, and the operation of which general act shall extend to the said city and liberties, every clause, matter, and thing in this act contained which shall extend or be construed to extend to give the commissioners hereby appointed any such local or separate jurisdiction shall cease and determine. This act to cease on the passing of any general act.

LXVII. That this act shall be deemed to be a public act, and shall be judicially taken notice of as such by all judges, justices, and others.

PART IV.

CLASS XVII.

STATUTES RELATING TO PERSONAL LIBERTY.

[There has been no recent enactment upon this subject.]

PART IV.

CLASS XVIII.

REAL ACTIONS.

[By the recent statute of limitations, 3 and 4 W. 4, c. 27, s. 35, all real or mixed actions, (except a writ of right of dower, or writ of dower *unde nihil habet*, or a quare impedit, or an ejectment,) and all plaints in the nature of such actions, except a plaint for freebench or dower, are abolished. See the clause and the other provisions of the act, *ante*, Part IV., Class VIII., *Limitation of Actions*.]

PART IV.

CLASS XIX.

DISTRESS, REPLEVIN, AND MATTERS RELATING TO LAND-
LORD AND TENANT.

[No. I.] 11 G. IV. c. 11.—An Act for extending certain Provisions of an Act of the Eighth Year of Queen Anne, for the better Security of Rents, and to prevent Frauds committed by Tenants regarding Executions, to certain Process in use within the County Palatine of Durham and Sadberge (1). [8th April 1830.]

8 Ann. c. 17.

No goods shall be removed by virtue of any writ unless the party suing shall, before removal of goods, pay the rent due to the landlord.

WHEREAS by an act passed in the eighth year of the reign of her late Majesty queen Anne, intituled *An Act for the better Security of Rents, and to prevent Frauds committed by Tenants*, it was enacted, That from and after the day therein named no goods or chattels whatsoever, lying or being in or upon any messuage, lands, or tenements which were or should be leased for life or lives, term of years, at will, or otherwise, should be liable to be taken by virtue of any execution on any pretence whatsoever, unless the party at whose suit the said execution was sued out should, before the removal of such goods from off the said premises by virtue of such execution or extent, pay to the landlord of the said premises, or his bailiff, all such sum or sums of money as were or should be due for rent for the said premises at the time of taking such goods or chattels by virtue of such execution, provided the said arrears of rent did not amount to more than one year's rent; and in case the said arrears should exceed one year's rent, then the said party at whose suit such execution was sued out, paying the said landlord or his bailiff one year's rent, might proceed to execute his judgment as he might have done before the making of that act; and the sheriff or other officer was thereby empowered and required to levy and pay to the plaintiff as well the money so paid for rent as the execution money: And whereas the said provision in the case of an execution does not extend to the case of certain process used within the county palatine of Durham and Sadberge, issuable from the courts of the said county palatine, or some or one of them, called a writ of pone per vadios, and a writ of extract thereon, by reason of such process not being an execution; for remedy whereof, be it enacted, &c., That from and after the passing of this act no goods or chattels whatsoever, lying or being in or upon any messuage, lands, or tenements within the said county palatine of Durham and Sadberge, which are or shall be leased for life or lives, term of years, at will, or otherwise, shall be liable to be attached, removed, assigned, delivered over, or sold by virtue of any writ of pone per vadios, or of any writ of extract thereon, to be issued from the courts of the said county palatine, or any of them, on any pretence whatsoever, unless the party at whose suit any such writ is sued out shall, before the removal of such goods from off the said premises by virtue of any such writ of pone or writ of extract, or of either of them, or of any proceeding either by consent for sale or otherwise under such writs or either of them, pay to the landlord of the said premises, or his bailiff, all such sum or sums

(1) This act was passed in consequence of a decision of the court of King's bench, that the statute 8 Anne, c. 17, did not extend to the case of goods seized by the sheriff by virtue of a *pone per vadios* issued out of the court of pleas at Durham, and afterwards sold under a writ of *extract*. See *Brandling v. Barrington*, 6 B. & C. 467.

of money as are or shall be due for the said premises at the time of the attaching or of the removal of such goods or chattels by virtue of such writ of pone per vadios or extract; provided the said arrears of rent do not amount to more than one year's rent; and in case the said arrears shall exceed one year's rent, then the said party at whose suit such writ of pone per vadios or extract is sued out, paying to the said landlord or his bailiff one year's rent, may proceed to execute his said writs as he might have done before the passing of this act; and the said party at whose suit such writ of pone per vadios or extract is sued out is hereby empowered, by and out of the said goods or chattels, to recover or otherwise to repay to himself as well the money so paid for rent as the money due or payable to him under or by virtue of such writs or either of them.

No. I.
11 G. 4, c. 11.

II. Provided always, and it is hereby enacted and declared, That nothing in this act contained shall extend or be construed to extend to let, hinder, or prejudice his Majesty, his heirs or successors, in the levying, recovering, or seizing any debts, fines, penalties, or forfeitures that are or shall be due, payable, or answerable to his Majesty, his heirs, or successors; but that it shall and may be lawful for his Majesty, his heirs and successors, to levy, recover, and seize such debts, fines, penalties, and forfeitures in the same manner as if this act had never been made; any thing in this act contained to the contrary thereof in anywise notwithstanding.

Act not to affect debts due to the king.

[No. II.] 2 W. IV. c. 17.—An Act to repeal an Act passed in the Seventh Year of his late Majesty King George the Fourth, intituled *An Act to amend the Law of Ireland respecting the Assignment and Subletting of Lands and Tenements*; and to substitute other Provisions in lieu thereof. [24th March 1832.]

WHEREAS an act was passed in the seventh year of the reign of his late Majesty king George the fourth, intituled *An Act to amend the Law of Ireland respecting the Assignment and subletting of Lands and Tenements*: And whereas it is expedient that the said act should be repealed, and that such of the provisions thereof as have been found beneficial should be re-enacted, with certain amendments: Be it therefore enacted, &c., That the said recited act be and the same is hereby repealed from and after the first day of May in the year of our Lord one thousand eight hundred and thirty-two, save and except as herein-after otherwise provided.

7 G. 4, c. 29.

Recited act repealed.

II. That where lands or tenements in Ireland are or shall be holden by virtue of any lease, instrument, or agreement in writing, which lease, agreement, or instrument doth or shall contain any condition, clause, or covenant prohibiting, controlling, or regulating the assignment or subletting of the lands or tenements demised or agreed to be demised thereby, or of any part thereof, no act, matter, or thing whatever hereafter to be done or acquiesced in by the lessor or lessors, person or persons contracting to lease by such deed, instrument, or agreement, or by his or their heirs, executors, administrators, or assigns, shall be deemed, taken, or construed in any court of law or equity to be or amount to a waiver of the benefit of any such condition, clause, or covenant; and that in any action or actions for the breach of any such condition, clause, or covenant, the benefit of which condition, clause, or covenant has not been heretofore waived, such lessor or lessors, contracting party or parties, and his and their heirs, executors, administrators, and assigns, shall be entitled to recover the possession of such lands or tenements by virtue of any such condition, or any penalty for such future breach of any such condition, clause, or covenant, accord-

Where lands are held under lease containing a covenant against subletting, no future act of the landlord shall be deemed a waiver of such covenant unless he be a party to the instrument of subletting, or his consent be given in writing.

No. II.
2 W. 4, c. 17.

to the provisions of the same respectively, unless it shall be expressly proved that such assignment or subletting was made with the consent of such lessor or lessors, contracting party or parties, his or their heirs, executors, administrators, or assigns, testified, where such assignment or subletting shall be by deed or written instrument, by his or their being a party to and signing and sealing such deed or written instrument, or some other deed or instrument containing such consent, or, where such assignment or subletting shall not be by deed or written instrument, testified by his or their consent in writing, or unless the benefit of such condition, clause, or covenant shall have been expressly waived by some writing signed by the party or parties entitled to the benefit thereof; and every such assignment or subletting, and every lease, deed, or instrument, or other agreement or proceeding, whereby such assignment or subletting shall be made without such consent as aforesaid, and testified as aforesaid, shall be and be deemed wholly null and void to all intents and purposes whatsoever, any law, statute, or usage to the contrary in anywise notwithstanding.

Particular or special waiver shall not extend to other cases, nor be deemed a general waiver.

III. Provided always, That where any actual waiver so to be made and testified as aforesaid of the benefit of any condition, clause, or covenant in any lease or instrument or agreements as aforesaid, or of the benefit of this act, on the part of the lessor or lessors, party or parties contracting to lease, or his or their heirs, executors, administrators, or assigns, shall be proved to have taken place in any one particular instance, such actual waiver shall not be assumed or deemed or construed to extend to any instance, or to any breach or breaches of covenant, clause, or condition, other than that to which such waiver shall specially relate, not to be a general waiver of the benefit of any such covenant, clause, or condition, or of the benefit of this act.

Lessee subletting without consent shall not have any remedy for the rent or occupation of the land.

IV. That in all cases the person assigning or subletting contrary to this act, without such consent signified as herein-before directed, shall not have or be entitled to any remedy, by distress or otherwise, for the recovery of any rent or sum reserved in and by any deed, written instrument, or other agreement by which such subletting or assignment shall be made, or for the occupation of any of the lands, or tenements so assigned or subletten, or for the recovery of such lands; any thing in any such deed, instrument, or agreement, or any law, statute, or usage, to the contrary notwithstanding.

Persons holding lands under an assignment, with consent of lessor, and paying rent to the party subletting, shall be acquitted against the lessor so consenting, or any person deriving title under him.

V. That in all cases where any person or persons, being seised or possessed of any lands or tenements in Ireland, (not being situate within any city, town, or borough, or the liberties thereof) under any assignment or subletting duly made of or under any lease or demise to be hereafter made for any term not exceeding three lives or thirty-one years from the commencement thereof, and upon which a rent equal to three fourths of the annual value of the demised premises shall have been reserved, save and except ecclesiastical leases, and leases held under any corporation, and leases containing any covenant or compact for renewal, shall, at any time after the said first day of May one thousand eight hundred and thirty-two, duly pay and satisfy the rent due from such person or persons, his or their heirs, executors, administrators, or assigns, to the person or persons, or his or their heirs, executors, administrators, or assigns, who shall have so assigned or sublet such lands or tenements, the receipt of such person or persons so assigning or subletting, or of his or their heirs, executors, administrators, or assigns shall be a full and sufficient discharge to such person or persons who shall have paid such rent, and to his and their heirs, executors, administrators, or assigns, as well against the person or persons so assigning or subletting, as also against the lessor or lessors or person or persons contracting with the person or persons so assigning or subletting, and the person or persons so having paid such rent, or his or their heirs, executors, administrators, or assigns, or his or their goods, chattels, or effects, lands or tenements, shall not be subject or liable to the

payment of or to any distress or other remedy for any rent due to such lessor or lessors, or to any person or persons deriving under him, her, or them, save as herein-after mentioned.

VI. Provided always, That in any case in which any lessee or lessees of any such lease as aforesaid, or the heirs, executors, or administrators of any such lessee or lessees, shall not duly pay the rent reserved in and by the lease or instrument under which such lands or tenements shall be held by such lessee or lessees to the party or parties entitled to receive the same, it shall be lawful for the party or parties entitled to such rent, at any time when there shall be due to him, her, or them two or more full gales or portions of the rent reserved in such lease or instrument, to give notice in writing, in the form contained in the schedule annexed to this act, to all and every person or persons who shall be then in occupation of the lands and tenements which shall have been assigned or sublet as aforesaid, requiring each and every such person and such persons to pay to the party or parties giving such notice the rent reserved upon the holding or holdings of any and every such person or persons respectively.

VII. That from and after the delivery of such notice to any person or persons in occupation of any such lands or tenements as aforesaid, (by being left at the house or usual place of abode of any and every such person or persons, either with such person or persons, or with some of the family of such person or persons respectively above the age of sixteen years,) every such person and such persons shall pay to the landlord or landlords giving such notice, or to his or their heirs, executors, administrators, or assigns, all and every sums and sum whatsoever due or to grow due for rent from such person or persons to the lessee or lessees so having assigned or subletten as aforesaid, or to his or their heirs, executors, administrators, or assigns; and from and after such notice as aforesaid, and until the satisfaction of all the sums due to the person or persons giving such notice on account of all rent due from such lessee or lessees having so assigned or subletten as aforesaid, the receipt of the person or persons giving such notice, or his or their heirs, executors, administrators, or assigns, shall be a full and sufficient discharge to the person or persons in the occupation of such lands or tenements, who shall have paid such rent, and to his and their heirs, executors, or administrators, against the person having so assigned or subletten as aforesaid, or his heirs, executors, or administrators; and the person or persons so having paid such rent, or his or their executors or administrators, or his or their goods, chattels, or effects, lands or tenements, shall not be subject or liable to the payment of any rent, or to any distress or other remedy for the same, to any person or persons under whom such person or persons may hold by reason of any such assignment or subletting as aforesaid, until such satisfaction as aforesaid.

VIII. That from and after the delivery of such notice as aforesaid, and until the satisfaction of all rent and arrears of rent due to the party or parties giving such notice, or his or their heirs, executors, administrators, or assigns, he and they shall have and enjoy all such rights, powers, and authorities for the recovering and enforcing the payment of any rent due and payable by any person or persons occupying the lands so assigned or sublet in manner aforesaid as could or might have been enjoyed, or as could or might have been legally exercised or enforced against any such person or persons respectively, by the party or parties so assigning or subletting in manner aforesaid; any thing in this act, or any law, usage, or custom, to the contrary notwithstanding.

IX. That where, under any assignment from any sheriff by virtue of any execution, or under any assignment from any executors or administrators, or from any assignee or assignees of any bankrupt or insolvent, or by operation of law, devise, or otherwise, any person or persons shall be legally or equitably seised or possessed of any lands or tenements held under any lease or demise made after the first day of May one thousand eight hundred and thirty-two, and containing any

No. II.

2 W. 4, c. 17.

On failure of payment of the rent by the party assigning, the landlord may give notice to sub-tenants to pay their rents to him.

After such notice, sub-tenants shall pay to the superior landlord, and his receipt shall be their discharge to all parties.

Landlord giving notice shall have power to recover rents.

Assignees of leases containing covenant against assigning and subletting liable to covenants in original lease

No. II.
2 W. 4, c. 17.

clauses, conditions, or covenants against assignment or subletting, such person or persons so deriving shall hold such lands and tenements subject to the said clauses, conditions, and covenants in such lease or demise contained, and that as fully as if such person or persons had been the original lessees therein: Provided always, That where two or more persons shall together become seised or possessed, in manner aforesaid, of any lands or tenements so demised as aforesaid, such persons shall take and hold the same as joint tenants, and not as tenants in common; and that it shall not be lawful for such persons, or any of them, by any deed, matter, or thing, to assign such lands or tenements, save as herein-after provided, nor to sever such tenancy, nor to sue out or demand, or procure to be issued, any writ of partition, or any writ or process in the nature of a writ of partition; any law, usage, or custom to the contrary notwithstanding: Provided always, that nothing herein contained shall extend or be construed to extend to disable any one or more of such persons from assigning to any other or others of such persons his or their estate and interest, the same remaining subject, after such assignment, to such and the like restraints and incidents as attached upon the same before such assignment.

This act not to extend to leases or agreements made between 1st June 1826 and 1st May 1832.

X. That nothing in this act contained shall extend or be construed to extend to any lease, instrument, or agreement for a lease made at any time since the first day of June one thousand eight hundred and twenty-six, or to be made before the said first day of May one thousand eight hundred and thirty-two; and that all leases, instruments, and agreements made or to be made in and during such interval, and all covenants, clauses, and conditions contained in such leases, instruments, and agreements, shall be and remain subject to, and be construed and governed by, the provisions of the said recited act of the seventh year of the reign of his late Majesty.

Powers of recited act as to such leases to remain in force.

XI. That so much and such parts of the said act as respects such leases, instruments, or agreements, and all covenants therein contained, shall be and remain in full force and effect, any thing in this act contained to the contrary notwithstanding: Provided always, that this act shall not extend to any lease or demise containing any covenant or agreement for perpetual renewal, or to any lease for the term of nine hundred or any greater number of years.

SCHEDULE to which this Act refers.

FORM OF NOTICE from a SUPERIOR LANDLORD or LANDLORDS to the SUB-TENANT or SUB-TENANTS of such LANDLORD'S or LANDLORDS' immediate LESSEE or LESSEES.

To A. B. [or, et cetera.]

TAKE notice, That I [or we], the undersigned C. D., superior landlord [or landlords] of the lands and tenements underletten to you by E. F. [or, et cetera.] do hereby require you to pay to me [or us] the said C. D. [or, et cetera.] or to my [or our] heirs, executors, administrators, or assigns, all rent and arrears of rent payable by you for the said lands and tenements, until all sums due from the said E. F. [or, et cetera.] for his [or their] rent of the said lands and tenements shall be fully paid and satisfied to me [or us], or my [or our] heirs, executors, administrators, or assigns.

Witness my hand [or our hands] this
in the year
To A. B. of

day of

C. D.

[No. III.] 3 & 4 W. IV. c. 42.—An Act for the further Amendment of the Law, and the better Advancement of Justice.
[14th August 1833.]

XXXVII. THAT it shall be lawful for the executors or administrators of any lessor or landlord to distrain upon the lands demised for any term, or at will, for the arrearages of rent due to such lessor or landlord in his lifetime, in like manner as such lessor or landlord might have done in his lifetime.

XXXVIII. That such arrearages may be distrained for after the end or determination of such term or lease at will, in the same manner as if such term or lease had not been ended or determined, provided that such distress be made within the space of six calendar months after the determination of such term or lease, and during the continuance of the possession of the tenant from whom such arrears became due: Provided also, That all and every the powers and provisions in the several statutes made relating to distresses for rent, shall be applicable to the distresses so made as aforesaid.

[No. IV.] 4 W. IV. c. 22.—An Act to amend an Act of the Eleventh Year of King George the Second, respecting the Apportionment of Rents, Annuities, and other periodical Payments.
[16th June 1834.]

WHEREAS by an act passed in the eleventh year of the reign of his Majesty king George the second, intituled *An Act for the more effectual securing the Payment of Rents, and preventing Frauds by Tenants*, (1) it was enacted, that where any tenant for life should happen to die before or on the day on which any rent was reserved or made payable upon any demise or lease of any lands, tenements, or hereditaments which determined on the death of such tenant for life, the executors or administrators of such tenant for life should and might, in an action on the case, recover of and from such undertenant or undertenants of such lands, tenements, or hereditaments, if such tenant for life die on the day on which the same was made payable the whole, or if before such day then a proportion of such rent according to the time such tenant for life lived of the last year or quarter of a year or other time in which the said rent was growing due as aforesaid, making all just allowances, or a proportionable part thereof respectively: And whereas doubts have been entertained whether the provisions of the said act apply to every case in which the interests of tenants determine on the death of the person by whom such interests have been created, and on the death of any live or lives for which such person was entitled to the lands demised, although every such case is within the mischief intended to have been remedied and prevented by the said act; and it is therefore desirable that such doubts should be removed by a declaratory law: And whereas, by law, rents, annuities, and other payments due at fixed or stated periods are not apportionable (unless express provision be made for the purpose), from which it often happens that persons (and their representatives (whose income is wholly or principally derived from these sources by the determination thereof before the period of payment arrives are deprived of means to satisfy just demands, and other evils arise from such rents, annuities, and other payments not being apportionable, which evils require remedy: Be it therefore enacted and declared by the king's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this pre-
11 G. 2, c. 19.
Rents reserved on leases deter-
mining on the

(1) See the act, *Evans's Statutes, Part IV, Class XIX.*

No. IV.

4 W. 4, c. 22.

death of the person making them (though not strictly tenant for life), or on the death of the tenant *pur autre vie*, to be considered

sent parliament assembled, and by the authority of the same, That rents reserved and made payable on any demise or lease of lands, tenements, or hereditaments which have been and shall be made, and which leases or demises determined or shall determine on the death of the person making the same (although such person was not strictly tenant for life thereof), or on the death of the life or lives for which such person was entitled to such hereditaments, shall, so far as respects the rents reserved by such leases, and the recovery of a proportion thereof by the person granting the same, his or her executors or administrators (as the case may be), be considered as within the provisions of the said recited act.

as within the provisions of recited act.

All rents, annuities, and other payments coming due at fixed periods to be apportioned;

II. That from and after the passing of this act all rents service reserved on any lease by a tenant in fee or for any life interest, or by any lease granted under any power (and which leases shall have been granted after the passing of this act), and all rents charge and other rents, annuities, pensions, dividends, moduses, compositions, and all other payments of every description, in the united kingdom of Great Britain and Ireland, made payable or coming due at fixed periods under any instrument that shall be executed after the passing of this act, or (being a will or testamentary instrument) that shall come into operation after the passing of this act, shall be apportioned so and in such manner that on the death of any person interested in any such rents, annuities, pensions, dividends, moduses, compositions, or other payments as aforesaid, or in the estate, fund, office, or benefice from or in respect of which the same shall be issuing or derived, or on the determination by any other means whatsoever of the interest of any such person, he or she, and his or her executors, administrators, or assigns, shall be entitled to a proportion of such rents, annuities, pensions, dividends, moduses, compositions, and other payments according to the time which shall have elapsed from the commencement or last period of payment thereof respectively (as the case may be), including the day of the death of such person, or of the determination of his or her interest, all just

subject to all just deductions.

Remedies for obtaining the apportioned parts.

allowances and deductions in respect of charges on such rents, annuities, pensions, dividends, moduses, compositions, and other payments being made; and that every such person, his or her executors, administrators, and assigns, shall have such and the same remedies at law and in equity for recovering such apportioned parts of the said rents, annuities, pensions, dividends, moduses, compositions, and other payments, when the entire portion of which such apportioned parts shall form part shall become due and payable, and not before, as he, she, or they would have had for recovering and obtaining such entire rents, annuities, pensions, dividends, moduses, compositions, and other payments if entitled thereto, but so that persons liable to pay rents reserved by any lease or demise, and the lands, tenements, and hereditaments comprised therein, shall not be resorted to for such apportioned parts specifically as aforesaid, but the entire rents of which such portions shall form a part shall be received and recovered by the person or persons who if this act had not passed would have been entitled to such entire rents; and such portions shall be recoverable from such person or persons by the parties entitled to the same under this act in any action or suit at law or in equity.

Act not to apply to certain cases.

III. Provided always, That the provisions herein contained shall not apply to any case in which it shall be expressly stipulated that no apportionment shall take place, or to annual sums made payable in policies of assurance of any description.

[For the clause in the 11 G. 4, and 1 W. 4, c. 70, with respect to the recovery of possession by landlords after notice of ejectment, see *ante*, Part IV., Class I., p. 392.]

For the provisions of the recent statute of limitations, 3 and 4 W. 4, c. 27, with reference to entries and distresses upon lands, see *ante*, Part III., Class VIII., *Limitation of Actions*. See also Part I., Class VIII., *Leases*.]

PART IV.

CLASS XX.

ACTIONS AGAINST JUSTICES AND OTHER OFFICERS.

[There has been no recent general statute relating to actions against justices and other officers, but particular provisions are to be found in all the late acts imposing duties on persons in public situations, protecting them in the discharge of such duties, as for instance in the last smuggling act, 3 and 4 W. 4, c. 56, s. 103, 4, 5, 6, 7. See also the provisions of the 1 and 2 W. 4, c. 41, for the protection of special constables appointed under that act, *post*, Part VI., Class XI., *Constables*.]

CLASS XXI.

PENAL ACTIONS AND INFORMATIONS.

[For the provision of the 3 and 4 W. 4, c. 42, s. 3, with respect to the time within which actions for penalties, damages, or sums of money given to the party grieved by any statute now or hereafter to be in force shall be brought; see *ante*, Part IV., Class VIII., p. 463.]

PART IV.

CLASS XXII.

ACTIONS AGAINST THE HUNDRED.

[No. I.] 2 & 3 W. IV. c. 72.—An Act to extend the Provisions of an Act of the Seventh and Eighth Years of the Reign of His late Majesty King George the Fourth, relative to Remedies against the Hundred (1).

[1st August 1832.]

7 & 8 G. 4,
c. 31.

Remedy may
be had against
the hundred for
damages done
to threshing
machines.

Provisions of
recited act ex-
tended to
threshing ma-
chines.

Not to extend
to Scotland or
Ireland.

WHEREAS it is expedient to extend the provisions of an act made and passed in the seventh and eighth years of the reign of his late Majesty king George the fourth, intituled *An Act for consolidating and amending the Laws in England relative to Remedies against the Hundred*, to threshing machines: Be it therefore enacted, &c. That if any threshing machine, whether fixed or moveable, or any part thereof, shall be feloniously cut, broken, damaged, or destroyed by any persons riotously and tumultuously assembled together, then and in every such case the inhabitants of the hundred, wapentake, ward, or other district in the nature of a hundred, or by whatever name it shall be denominated, in which any such offence shall be committed, shall be liable to yield full compensation to the person or persons damnified by the offence, not only for the damage so done to any such machines as aforesaid, but also for any damage which may at the same time be done by any such offenders to any erection or fixture whatever in or about or belonging to any such machines.

II. That the several clauses, remedies, and provisions contained in the said recited act shall extend and be construed to extend to such machines as are herein-before mentioned, as fully and effectually to all intents and purposes as if the same machines had been mentioned and particularized in the said recited act.

III. Provided always, That nothing in this act contained shall extend to Scotland or Ireland.

(1) See this act, *Evans's Statutes*, Part IV, Class XXII.

PART IV.

CLASS XXIII.

KING'S DEBTS.

[No. I.] 1 & 2 W. IV. c. 26.—An Act to amend an Act of the Second Year of the Reign of his Majesty King George the Third, and to appoint the number of Commissioners competent to grant Quietus to Public Accountants under an Act passed in the Fifty-sixth Year of the Reign of his Majesty King George the Third, for consolidating the Public Revenues of Great Britain and Ireland.

[No. II.] 1 & 2 W. IV. c. 52.—An Act to repeal an Act passed in the Fifty-second Year of the Reign of his Majesty King George the Third, to provide for the more speedy Examination, Controlling, and finally Auditing the Military Accounts of Ireland.

[No. III.] 2 & 3 W. IV. c. 26.—An Act to authorize the Commissioners for Auditing the Public Accounts of Great Britain to examine and audit Accounts of the Receipt and Expenditure of Colonial Revenues.

[No. IV.] 2 & 3 W. IV. c. 99.—An Act for transferring the Powers and Duties of the Commissioners of Public Accounts in Ireland to the Commissioners for Auditing the Public Accounts of Great Britain.

[No. V.] 2 & 3 W. 4, c. 103.—An Act to provide for the Examination and Audit of the Customs and Excise Revenues in Scotland.

[No. VI.] 2 & 3 W. 4. c. 104.—An Act. to regulate the period of rendering the Public Accounts and making up the general Imprest Certificates. [11th August, 1832.]

WHEREAS the sums required for the various public services have been voted by the commons house of parliament for a period of five quarters, commencing on the first day of January last past, and ending on the thirty-first day of March one thousand eight hundred and thirty-three; and the estimates of the sums which will be required for the public service will henceforth be made up for the year ending on the thirty-first day of March, instead of the thirty-first day of December, as has hitherto been done: And whereas it is expedient that the rendering of the public accounts should correspond with such periods; be

No. VI.
3 & 3 W. 4,
c. 104.

Treasury to
order accounts
to be made up
for certain
periods;

and delivered
to commis-
sioners of audit.

Treasury may
order quarterly
periods for
making up
general imprest
certificates to
end otherwise
than as pre-
scribed by
1 & 2 G. 4,
c. 121.

Imprest certi-
ficates to be
transmitted to
commissioners
of audit.

it therefore enacted, That it shall be lawful for the lord high treasurer, or the commissioners of his Majesty's treasury for the time being, or any three or more of them, and they are hereby authorized and empowered (if they shall deem it expedient), to order and cause all or any public accountants in any department of the public service to make up their accounts for such periods, and from and to such days, as to the said lord high treasurer or commissioners of the treasury shall seem expedient; and all and every such accountants and sub-accountants shall make up their respective accounts conformably to such orders as they shall hereafter receive from the lord high treasurer or the commissioners of the treasury, and shall render and deliver the same, so made up, to the commissioners for auditing the public accounts (whenever by law or usage they are required to deliver their accounts to the said commissioners of audit) within three calendar months of the day to which the said respective accounts shall be directed to be made up, unless the said commissioners of audit shall, in pursuance of the powers now vested in them, enlarge the said time for delivering the said respective accounts.

II. And whereas an act was passed in the first and second years of the reign of his late Majesty king George the fourth, intituled *An Act to alter and abolish certain Forms of Proceedings in the Exchequer and Audit Office, relative to Public Accountants, and for making further Provisions for the Purpose of facilitating and expediting the passing of Public Accounts in Great Britain; and to render perpetual and amend an Act passed in the Fifty-fourth Year of His late Majesty, for the effectual Examination of the Accounts of certain Colonial Revenues*: And whereas it may be expedient to alter the quarterly periods prescribed by the said act for the making up and transmitting the general imprest certificates made out in the office of the auditor of the exchequer; be it therefore further enacted, That it shall be lawful for the lord high treasurer, or the lords commissioners of the treasury, or any three or more of them, and they are hereby authorized and empowered (if they shall deem it expedient), from time to time to order and direct that the quarterly periods for which the said general imprest certificates shall hereafter be made up shall end on other days instead of those prescribed by the said act, and to appoint and name such other days for that purpose; and the said general imprest certificates shall be made out accordingly, and shall be transmitted to the aforesaid commissioners for auditing the public accounts within thirty days after each of the said quarterly days to be appointed and named as aforesaid, instead of the days prescribed by the said act.

[No. VII.] 3 & 4 W. IV. c. 99.—An Act for facilitating the Appointment of Sheriffs, and the more effectual Audit and Passing of their Accounts, and for the more speedy Return and Recovery of Fines and Issues, forfeited Recognizances, Penalties, and Deodands; and to abolish certain Offices in the Exchequer. [29th August 1833.]

[Inserted ante, Vol. I., Part IV., Class XIV.]

[No. VIII.] 4 W. IV. c. 15.—An Act to regulate the Office of the Receipt of His Majesty's Exchequer at Westminster. [22d May 1834.]

57 G. 3, c. 84. WHEREAS by an act passed in the fifty-seventh year of the reign of his late Majesty king George the third, intituled *An Act to regulate the Offices of his Majesty's Exchequer in England and Ireland respectively*, it was declared, that the offices of auditor and tellers of his

Majesty's exchequer in England and Ireland respectively, and of clerks of the pells in England and Ireland respectively, were offices with respect to which it was expedient that a more economical execution of the duties thereof respectively, after the termination of the then existing interests therein, should be adopted; and it was thereby enacted, That from time to time thereafter as such respective offices should become vacant it should be lawful for the lord high treasurer of the united kingdom of Great Britain and Ireland, or the commissioners of his Majesty's treasury, for the time being, and they were thereby required to regulate the duties and establishments of the offices so becoming vacant, so that the said duties should be performed in person by such fit and proper persons as the said commissioners should deem sufficient and necessary, with such salaries or emoluments as should be ordered and appointed by the said commissioners in that behalf, the said commissioners laying before parliament an account of the new establishment of the respective offices so regulated, and all the regulations above mentioned, with a statement of the number of officers and amount of salaries of each respectively, together with a statement of the former establishment of the respective offices so regulated: And whereas, under the powers vested in the commissioners of his Majesty's treasury by the said act, the offices of auditor of the exchequer and clerk of the pells in Ireland have been abolished, and certain other arrangements have been made in the offices of teller of the exchequer in Ireland and clerk of the pells in England: And whereas his Majesty was pleased by his royal sign manual warrant, bearing date the twenty-first day of June one thousand eight hundred and thirty, to appoint certain commissioners to inquire into the charges of managing and collecting the public revenue, and into the manner in which the public monies were received into, kept in, and issued from the receipt of his Majesty's exchequer, and also by his royal sign manual warrant, bearing date the eighth day of July one thousand eight hundred and thirty-one, to appoint certain other commissioners to inquire and examine into the practice of the exchequer with respect to the receipt and payment of the public money, and the mode of keeping the accounts thereof: And whereas by a report of the said last-mentioned commissioners made thereupon to the commissioners of the treasury, bearing date the eighth day of October following, various arrangements, alterations, and improvements in the constitution of the court of the receipt of the exchequer, and in the practice and mode of keeping the accounts thereof, have been proposed to be adopted: And whereas it is expedient to carry into effect certain of the regulations proposed in the said report, and to that end to remodel the constitution of the exchequer at Westminster, and to effect the improvements intended, notwithstanding the existing interests in the several offices of the exchequer which have not as yet been determined: be it therefore enacted, &c., That from and after the commencement of this act, as herein-after mentioned, the several offices following in the exchequer at Westminster (that is to say), the offices of auditor, and of each of the four tellers of the exchequer, and of the clerk of the pells, and the several offices subordinate thereto, be and the same are hereby abolished, and to that end that the several patents, warrants, and authorities under which the same have been and are respectively held shall cease, determine, and become absolutely null and void; and that in lieu of the said several offices the constitution and establishment of the exchequer shall consist of the following officers; (that is to say,) a comptroller general to be designated comptroller general of the receipt and issue of his Majesty's exchequer, with an annual salary of two thousand pounds; an assistant comptroller, a chief clerk, and such number of clerks and assistants, with such salaries, as shall be established and regulated from time to time by the commissioners of his Majesty's treasury.

No. VIII.
W. 4, c. 15.

Offices of auditor, tellers, clerk of the pells, and the offices subordinate thereto, abolished.

New establishment.

II. That the office of the said comptroller shall be granted by letters patent under the great seal of the united kingdom of Great Britain and

Appointment of comptroller.

No. VIII.
4 W. 4, c. 15.

Assistant may
act in certain
cases.

Comptroller
incapable of
holding any
other office.

Powers of au-
ditor or clerk of
pells trans-
ferred to comp-
troller.

Offices to be
performed in
person, &c.

Treasury to
establish forms
of books, ac-
counts, war-
rants, instru-
ments, &c.

Records, &c.
relating to the
exchequer to be
delivered over
to the comp-
troller.

Tellers to pay
over to the bank
all monies, &c.
in their hands.

Ireland, to continue in force during good behaviour, subject, however, to his removal therefrom by his Majesty, his heirs and successors, on the address of the two houses of parliament; subject also to the abolition or regulation of his office at any future time by the authority of parliament; and that the duties, powers, and authorities by this act imposed on or vested in the comptroller shall and may, in the event of the illness or of the occasional and necessary absence of the said comptroller from his office, be executed by such assistant.

III. Provided always, That the said comptroller shall not be capable of holding his office at the same time or together with any other office to be held during pleasure under the crown, or under any officer appointed by the crown.

IV. That all the powers and authorities now vested in the auditor of the exchequer or clerk of the pells, either by law or usage, shall, from and after the commencement of this act, be transferred to and vested in the said comptroller, subject to the provisions of this act, except only so far as any of such powers or authorities are or shall be by this act controlled, diminished, or varied.

V. That the said comptroller, assistant comptroller, chief and other clerks shall execute the duties of their respective offices in person; and that the office of the exchequer shall be kept open for public business, and attendance shall be given thereat by the said officers and clerks, throughout the year, on all such days and during the usual hours in which the office of his Majesty's treasury has been accustomed to or shall be kept open.

VI. That it shall be lawful for the commissioners of the treasury for the time being from time to time, by such orders and regulations as they shall see necessary for the safety, economy, and advantage of the public service, to establish and direct what books, accounts, and vouchers shall be kept and used in the said office of exchequer, and the forms thereof, as well as the forms of all warrants, specifications, instruments, and other documents which for the better carrying into effect the purposes of this act it shall be necessary to make use of in either of the said offices of the treasury and exchequer, or in any other public office whatsoever; and likewise in what manner the applications made to the treasury for credits for the services of the respective departments of expenditure shall be examined, approved, and recorded; and also in what books and in what manner the several instruments required or authorized by this act shall be entered, recorded, and acted upon; and the form of returns to be made by the said comptroller to the commissioners of the treasury, and the periods for making the same.

VII. That on the eleventh day of October one thousand eight hundred and thirty-four all books, records, deeds, papers, documents, and vouchers whatsoever relating to the office of the receipt of the exchequer, and all the standard weights and measures, and standard pieces of gold, silver, and copper, and all other articles of public property, (except monies and securities for money, and such documents as are by this act directed to be delivered over to the commissioners of the treasury) which shall then be in the custody, power, or control of the auditor, tellers, or clerk of the pells of the exchequer at Westminster, or of any of their officers or clerks, shall be delivered into the custody of the said comptroller, who shall thereupon take charge of the same, and by whom, or whose assistant, and by the officers subordinate to him, all such acts, matters, and things relating to the said standard weights and measures, and standard pieces of gold, silver, and copper, as have heretofore been or ought to be performed by any of the officers of his Majesty's exchequer, shall from thenceforth be performed and executed.

VIII. That on the said eleventh day of October, and between the hours of ten in the forenoon and four in the afternoon, all monies, whether out cash or otherwise, and all bills, notes, and securities for money, belonging to the crown, in the chests or in the keeping, or at the dis-

posal of the tellers of his Majesty's exchequer or of any of the officers under them, or with which they or any of them shall be charged or chargeable, shall be paid into the bank of England to the credit of his Majesty's exchequer, and that an account shall be thereupon opened by the governor and company of the said bank, to be called "The Account of his Majesty's Exchequer"; and that each of the said tellers and other officers of the exchequer who shall make any such payment into the said bank shall at the same time deliver a specification or statement in writing in duplicate, signed by himself with his own name, distinguishing the particulars of such payment and showing the total amount thereof, to the cashier of the bank or other officer to be appointed in that behalf, who shall enter the same in a book to be kept for that purpose, and sign a memorandum thereon of such entry having been so made, and shall transmit one of such duplicates to the comptroller of the exchequer, and also a certified copy thereof to the commissioners of the treasury; and the other of such duplicates, vouched and signed by the said cashier or other officer as aforesaid, shall be returned by him to the person making the payment, who shall deposit the same with the said comptroller of the exchequer, by whom an acquittance shall be made out, signed, and delivered to the party making the payment, which shall be to such party a legal and sufficient discharge with the auditors of the public accounts and all other persons whomsoever: Provided always, that the party making the payment shall at the same time transmit to the comptroller and also to the commissioners of the treasury a statement of the particulars of such payments, showing the sources from which the money so paid shall have been derived, and the services to which the same were applicable; And provided also, that such monies, whether out cash or otherwise, so to be paid over by the said tellers, shall remain chargeable and appropriated to the services to which any such monies are now specifically applicable; and that it shall be lawful for the commissioners of the treasury to give authority to the comptroller of the exchequer to apply the same accordingly.

No. VIII.
W. 4, c. 15.

IX. That upon and from and after the said eleventh day of October all public monies which previous to the commencement of this act shall have been payable into his Majesty's exchequer at Westminster shall be paid into the bank of England to the credit of the exchequer; and that the party paying in any such money, or on whose account the same shall be paid, shall in like manner deliver therewith a specification or statement of the particulars thereof in writing in duplicate under his hand, to be previously countersigned by the comptroller or his assistant, to the cashier or officer of the bank receiving the payment, to be by him entered in manner already provided; and one of the said duplicates, having been vouched and signed by the said cashier or officer as aforesaid, shall be returned to the party making the payment, in order to his thereupon obtaining from the comptroller an acquittance in the manner hereinbefore directed with respect to payments made by the tellers; and at the close of each day on which any payment shall be made into the bank on account of the exchequer there shall be transmitted from thence by the cashier or other officer of that establishment the other of the said duplicate specifications (with the entry thereof marked on each) to the said comptroller, together with a statement of the particulars of all sums paid into the bank on that day; and a copy of such statement, certified by the cashier or other proper officer, shall at the same time be transmitted from the bank to the commissioners of the treasury.

All public monies hitherto payable into the exchequer to be paid into the bank.

X. That all monies paid into the bank of England on account of the exchequer shall be treated by the governor and company of the said bank as forming one fund in their books; and that all warrants or orders to be made by the comptroller of the exchequer for credits to the various officers to whom money is to be issued for the public service shall be satisfied out of such general fund: Provided always, that in the accounts to be kept by the comptroller of the exchequer and by the

Monies paid to the account of the exchequer to form one fund in the bank books.

No. VIII.
4 W. 4, c. 15.

commissioners of the treasury, the receipts, credits, and issues shall be placed to the several and respective accounts to which they shall severally and respectively belong, according to the enactments of the act or acts under the authority of which the monies are received and the credits and issues directed; and provided also, that, in directing the transfer of any credits from the general account of his Majesty's exchequer at the bank of England, all the provisions of the several statutes now in force whereby the appropriation of the consolidated fund of Great Britain and Ireland is authorized and directed shall be strictly observed and followed.

Royal order
for issuing money
to the different
departments of the
public service.

XI. That from and after the commencement of this act, whenever any sum or sums of money shall have been granted to his Majesty by any act of parliament or vote of the house of commons for any specified branch of the public service, and ways and means shall likewise have been granted for satisfying and making good the same, it shall be lawful for his Majesty, by his royal order under the royal sign manual, to be countersigned by the commissioners of the treasury, to authorize and require the said comptroller to place at the bank of England, to the credit of the public accountant to the crown in the respective branch of service, the amount of the sum so granted or voted, at such times and in such proportions as the said commissioners shall from time to time direct, to be applied by such officer to such service; and that such royal order shall contain a reference to the particular act or vote of parliament, and shall, after having been recorded and entered by the commissioners of the treasury in their books, be transmitted to the said comptroller to be entered on record, and to remain in his office, the said comptroller having first satisfied himself that the said order has been made in conformity with and has not exceeded the amount of the grant of parliament.

Treasury warrant.

XII. That it shall be lawful for the commissioners of the treasury, by warrant under their hands, from time to time as they shall see expedient and proper, to authorize and require the said comptroller to transfer from the general fund of the exchequer at the bank to the credit of the respective officers whose duty it shall be to make payments on account of the several public departments such sums as shall be requisite for carrying on the respective services; and every such warrant shall recite the substance of the royal order upon which it is founded, referring to the act or vote therein mentioned, and shall specify the total amount of the monies authorized by such order to be issued, and the credits (if any) which have previously been issued on account thereof, and of the balance still remaining to be issued; and upon the receipt of every such warrant at the office of the said comptroller the same shall be compared with the royal order, and with the preceding warrants (if any) which shall have been made in pursuance thereof; and the said comptroller, having satisfied himself that such warrant has been made in conformity with and has not exceeded in amount the royal order, shall from time to time, (in pursuance of directions to that effect from the commissioners of the treasury), by a warrant under his hand, authorize the governor and company of the bank of England to grant credits on account of the sum or sums therein mentioned to the person or persons therein described, which warrant shall be forwarded to the said governor and company, who, on the receipt thereof, shall grant the credit thereby required.

Exchequer
warrant.

Warrants for
the issues of
monies charged
on the consolidated
fund, &c.
may be made
without royal
order.

XIII. That in all cases of grants by parliament, charged on the consolidated fund of the united kingdom, or upon any public monies specially appropriated by any act or acts of parliament to or for any particular objects or services, and in all cases where by any act or acts or any other lawful authority the auditor of the exchequer is now required to make and pass debentures for the payment of any such charge or charges, it shall be lawful for the said commissioners of the treasury and they are hereby required, by warrant under their hands, without any such royal order as aforesaid, from time to time to authorize and require the said

comptroller to accredit the several persons whose duty it may be to pay such charges with the sums requisite for that purpose; and every such last-mentioned warrant shall contain a reference to the act or acts of parliament by which such sums shall be charged on the said fund or on such other public monies so specifically appropriated; and the said comptroller, on the receipt of the said warrant, having first satisfied himself that the payments therein directed are duly authorized by law, shall from time to time, in pursuance of directions to that effect from the commissioners of the treasury, by warrant in writing authorize and direct the governor and company of the bank of England to grant credits on account of the sum or sums mentioned in the treasury warrant to the officer or person whose duty it shall be to make the payment; and the said governor and company, on the receipt of such warrant of the comptroller, shall grant the credit thereby directed.

No. VIII.
W. 4, c. 15.

XIV. Provided always, That in cases in which any credit shall be granted to any person by the said governor and company, in pursuance of this act, no sum of money shall be transferred from the account of his Majesty's exchequer until the same shall be actually paid by the bank to or on account of the person to whom such credit shall be granted: Provided always, That nothing in this act contained shall be construed to alter or affect the regulations now in force by virtue of any act or acts relating to the payment of the dividends on account of the public debt.

Credits not to be accompanied by actual transfers.

XV. And whereas it is expedient to provide for the payment of salaries, allowances, and other charges hitherto payable in detail at the exchequer; be it therefore further enacted, That from and after the commencement of this act all salaries, allowances, incidents, and other charges now payable in detail at the exchequer under the authority of parliament, or under royal sign manual, or under the authority of the commissioners of the treasury duly authorized by law to order such payments, shall be paid by a paymaster or officer to be for that purpose appointed by the commissioners of the treasury, with such number of clerks and assistants as the said commissioners shall deem requisite for carrying on and fully executing the several duties connected with or incident to such payments, which duties shall be performed by the said paymaster and his assistants under such regulations as the said commissioners shall from time to time establish; and that so soon as such appointment shall have taken place all papers and documents relating to such payments and duties which shall appear to the commissioners of the treasury to be necessary for the proper discharge of the duties of the said paymaster, and which shall then be in the custody or power of any of the officers of the exchequer, shall be by them delivered over to and remain in the custody of the said commissioners of the treasury.

Treasury to appoint officers for paying salaries, &c.

XVI. That the several books to be kept in the office of the comptroller general of the exchequer and in the office of the paymaster to be appointed under the authority of this act shall be deemed books of record, and shall be received as such, in all courts of law and equity and elsewhere, in evidence of the entries therein respectively contained, and of the debts thereby respectively charged against the several and respective accountants to the crown.

Books of comptroller and paymaster to be deemed of record.

XVII. That the said paymaster's account shall be kept at the bank of England, and be deemed for all purposes a public account.

Paymaster's account.

XVIII. That the commissioners of the treasury shall, previously to the period fixed for the commencement of this act, and from time to time afterwards as they may think proper, transmit to the bank of England and to the comptroller of the exchequer a list of the several public officers or individuals who are required to keep public accounts at the bank of England; and that upon the death, resignation, or removal of any such public officers or individuals, the balance of their credits on the exchequer funds, and also the balance of cash on their public accounts, in the books of the bank, shall, upon the appointment of their successors, unless otherwise provided for by law, vest in and be transferred

Treasury to transmit to the bank a list of public officers required to keep accounts there. On death of any public officer, his account with exchequer and bank to

No. VIII.
1 W. 4, c. 15.

vest in his
As to fractional
parts of a
penny.

Bank to trans-
mit statements
of credits and
payments.

Bills of ex-
change, &c. not
to be payable
at the bank
after three
o'clock.

Treasury may
establish rules
for keeping ac-
counts of pub-
lic departments.

Quarterly state-
ments to be
made by comp-
troller to the
commissioners
of audit, and
annual state-
ments to par-
liament.

to the account of such successors, and shall not in the case of the death of any such individual constitute assets of the deceased, or be in any manner subject to the control of his personal representative.
successor in office.

XIX. That in all payments to be made and accounts to be kept under this act the fractional parts of one penny shall be excluded therefrom.

XX. That the governor and company of the bank of England shall and they are hereby required to transmit from day to day to the said comptroller an account of the several payments actually made by them in the course of the preceding day on account of the credits granted by him; and the said governor and company shall likewise weekly transmit to the commissioners of the treasury a statement specifying the sums of money paid within the preceding week to the drafts or orders of the several public accountants to whom credits shall have been granted by the said governor and company in pursuance of the warrants of the said comptroller, distinguishing the payments on each account, and also a statement of the balance of money remaining in the bank at the close of each such week on account of the exchequer; all which several statements shall be authenticated by the signature of one of the cashiers or other officer of the bank to be appointed for that purpose.

XXI. That no bill of exchange drawn on any public officer or department for the public service, and accepted payable at the bank of England, nor any cheque, draft, or order for the payment of money drawn by any person or accountant authorized to draw for the public service, shall from and after the commencement of this act be payable at the bank of England at any time after three of the clock in any day.

XXII. And whereas, by reason of the alterations by this act directed to be made in the proceedings and practice of his Majesty's exchequer with respect to the receipt and issue of the public monies, it will be necessary that new regulations should be prescribed for the government of the several receivers general and other collectors of the revenue in their transactions with the bank of England; be it therefore enacted, That it shall be lawful for the commissioners of the treasury from time to time to establish rules and regulations for keeping the accounts of of the several respective departments of the revenue with the bank of England, and for the payment of the public monies collected by such departments to the account of the exchequer; which several rules and regulations shall be certified by the commissioners of the treasury to the governor and company of the bank of England and to the several and respective departments of the revenue, and shall be of full force and authority, and shall be observed by all bodies and persons whatsoever in relation to all matters and things therein contained; any thing in any act or acts to the contrary notwithstanding.

XXIII. That from and after the commencement of this act the comptroller of the exchequer shall, within one week next after the termination of each quarter in every year, transmit to the commissioners for auditing the public accounts a statement of all payments made to the bank on account of the exchequer, and of all the credits for which warrants shall have been granted by him upon the bank, during that quarter, together with a statement of all monies drawn by the said accountants during the course of the quarter, as certified to him by the governor and company of the bank of England; and the said comptroller shall also cause to be prepared and laid before each house of parliament, on the twentieth day of April in every year, if parliament shall be then sitting, and if not, then within seven days after the next meeting of parliament, an account under his hand for such preceding year, ending on the fifth day of April, showing the amount of all monies received during that period to the account of his Majesty's exchequer, and distinguishing the same under the several and respective heads of public revenue, and showing also the amount of all royal orders and treasury warrants received by him, and the issues made from the bank on credits given pursuant thereto, under the respective heads aforesaid,

and stating the balance of monies remaining at the bank to the account of the exchequer at the close of each such year, which said account shall be accompanied by a certificate, under the hand of the principal cashier of the bank of England, which such cashier is hereby required to give, of the sum which actually remained on the books of the bank to the credit of his Majesty's exchequer on the said fifth day of April.

No. VIII.

1 W. 4, c. 15.

XXIV. That the annual account made up on each quarter day, which by an act passed in the tenth year of the reign of his late Majesty king George the fourth, the commissioners of the treasury are required to cause to be prepared, of the actual receipt and expenditure of the united kingdom, according to the actual receipt and issue of monies at his Majesty's exchequer, shall, from and after the commencement of this act, so far as relates to Great Britain, be made out according to the actual receipt of money at the bank on the account of the exchequer and of credits granted thereout by the warrants of the comptroller; and the surplus directed by the said act to be issued and applied towards the reduction of the national debt, being thereby ascertained, shall be issued and applied accordingly in the manner directed by the said act.

Surplus revenue to be ascertained by receipts and credits at the bank.

XXV. And whereas the practice which has heretofore prevailed of taking or deducting monies, in the nature of fees, upon the issue of public monies to the several departments, has been found to be attended with expence and inconvenience; be it therefore further enacted, That from and after the commencement of this act the fees heretofore charged and taken at the exchequer upon the issues of money to and receipts of money from the several departments of or accountants to the crown for the public service shall cease and be no longer payable; and that in all cases in which any payments made to individuals at the exchequer have been heretofore chargeable with fees or deductions it shall be lawful for the commissioners of the treasury and they are hereby required, from and after the commencement of this act, to reduce all such payments to the several and respective net amounts heretofore received from the exchequer by the several and respective parties.

Fees on issues for the public service abolished.

XXVI. That from and after the commencement of this act all exchequer bills to be thereafter made out under the authority of any act of parliament shall be prepared, made out, and numbered in the office of the said comptroller at such times and in such form as the commissioners of the treasury shall from time to time direct; and that the several regulations in relation to the making out, issuing, and paying off exchequer bills which are established by an act passed in the forty-eighth year of the reign of his Majesty king George the third, intituled *An Act for regulating the issuing and paying off of Exchequer Bills*, or by any other act or acts with respect to the issue and application of exchequer bills under the authority of such acts, shall continue in force, except in so far as the same shall be altered by any of the provisions of this act; and that all such bills shall be signed by the said comptroller, or in his name by his assistant, and shall be issued and applied to the public service at such times and in such manner as shall be directed by the commissioners of the treasury, or in such manner and upon such authorities as shall have been specially directed with respect thereto by any act or acts now in force, the said comptroller taking care that such bills are made and issued according to law.

As to the preparation of exchequer bills.

48 G. 3, c. 1.

XXVII. That a return, setting forth all orders and regulations, and describing all books and forms of accounts and vouchers, which shall have been ordered and prescribed by the commissioners of the treasury, shall be laid before parliament on or before the fifth day of April one thousand eight hundred and thirty-five, if parliament be then sitting, and if not then sitting, within six weeks from the day of the next ensuing meeting of parliament.

Return of regulations to be made to parliament.

XXVIII. That if any person shall forge, counterfeit, or alter, or cause or procure to be forged, counterfeited, or altered, or knowingly and willingly act, aid, or assist in forging, counterfeiting, or altering, any warrant, order for payment, or other document whatsoever by this act di-

Punishing persons guilty of forgery.

No. VIII.
4 W. 4, c. 15.

rected or authorized to be issued or made, or shall utter or publish as true, or knowingly or willingly act, aid, or assist in uttering or publishing as true, knowing the same to be forged, counterfeited, or altered, any such warrant, order for payment, or other document whatsoever, with intent to defraud his Majesty, the governor and company of the bank of England, or any other person or persons, any person so offending shall be deemed guilty of felony, and shall upon conviction be transported beyond the seas for the term of his natural life.

Compensation
to two of the
tellers and to
the clerk of the
pells.

XXIX. And whereas it is just and reasonable that full compensation should be made to the several officers of the exchequer at Westminster who now hold their offices for life or during good behaviour; be it therefore enacted, That there shall be paid to Henry Earl Bathurst and to Spencer Perceval esquire, two of the present tellers of the exchequer at Westminster, respectively, during their respective lives, by quarterly payments, the amount of the annual salaries to which they are at present respectively entitled by virtue of their respective offices; and that there shall be paid to the right honourable Henry Ellis, the present clerk of the pells of the Exchequer at Westminster, the tenure of whose office is during good behaviour, the annual sum of one thousand and four hundred pounds, being the amount of his present salary, by quarterly payments: Provided always, That a proportionate part of such several sums shall be paid to the executors or administrators of the several and respective parties in the event of the death of any of them during the course of any quarter.

Compensation
to Marquis
Camden.

XXX. And whereas the most noble John Jeffries Marquis Camden, one other of the present tellers of the Exchequer, hath, in pursuance of a proposition made by him, and in consideration of the state of the country, paid in aid of the public revenue towards the exigencies of the state the surplus of the fees, perquisites, and emoluments of his office, after abating thereof the necessary charges and expences of the establishment thereof, reserving to himself only the annual salary of a teller authorized by an act passed in the twenty-third year of the reign of his late Majesty king George the third, for establishing certain regulations in the receipt of his Majesty's exchequer; which contribution has to the present time amounted to the sum of two hundred and forty-four thousand four hundred and seven pounds ten shillings and eleven-pence: And whereas, in consideration of the said contribution so made to the public service, and of the voluntary surrender of the profits and emoluments accruing to him by law in right of his office, it is just and proper that the full rights and interests of the said Marquis Camden should not be impaired or altered by any thing in this act contained; be it therefore enacted, That from and after the passing of this act it shall be lawful for the commissioners of his Majesty's treasury to direct the payment to the said Marquis Camden, out of the consolidated fund, of such amount or sum of money quarterly and every quarter as shall be equal to the amount of the fees on the several quarterly issues made from the exchequer for the public service, on which, prior to the passing of this act, such fees would have attached and become payable to the said Marquis Camden.

Treasury may
grant compen-
sation to the
other officers.

XXXI. That it shall be lawful for the commissioners of his Majesty's treasury to grant to the several other persons in the several offices of the present establishment of the exchequer such annual allowances, by way of compensation for the suppression of their respective offices, as to the said commissioners shall seem just.

As to officers
who shall be
continued in
employment on
the establish-
ment.

XXXII. Provided always, That no such compensation shall be paid to the present clerk of the pells or to any person holding an office on the present establishment of his Majesty's exchequer, save and except the two present tellers of the exchequer, who shall be appointed to an office of equal or greater emolument under the crown; and that such compensation shall be reduced if any such officer, save and except as aforesaid, shall be appointed to an office of smaller emolument than that of the office he previously held, so as that the salary or emolument attached

to the office to which he shall be so appointed, together with the compensation granted to him, shall not exceed the salary of the office previously held by him. No. VIII.
4 W. 4, c. 15.

XXXIII. That the compensations hereby granted or authorized to be granted, and those which are at present charged on the fee fund of the exchequer, amounting to the annual sum of eight thousand three hundred and twenty-three pounds, and the salary and allowance to the said comptroller, shall be charged on the consolidated fund of the united kingdom of Great Britain and Ireland, and that it shall be lawful for the commissioners of the treasury from time to time, by their warrant for that purpose, to direct the requisite sums of money to be credited by the said comptroller to the paymaster or other officer to be appointed for payment of such compensations and salary. Compensations,
salary, &c.
charged on the
consolidated
fund.

XXXIV. That all powers given to or vested in the commissioners of the treasury by this act may be executed by any three of such commissioners for the time being; and that all enactments, matters, and things herein contained relating to public monies shall extend and be construed to extend to all bills, drafts, and notes as securities for money received to the use of the public. Powers hereby
given to the
treasury may be
executed by
any three com-
missioners.

XXXV. That nothing in this act contained or authorized to be done shall extend to destroy or affect the validity of any deeds, powers of attorney, or other instruments which at the commencement of this act shall be in force with respect to any monies theretofore receivable at the exchequer under the authority of the same, but that all such deeds, powers of attorney, and other instruments shall continue of like validity with respect to any such payments to be thereafter made by the paymaster to be appointed under the authority of this act. Deeds, powers
of attorney, &c.
not to be af-
fected.

XXXVI. That this act shall commence and take effect on and from the eleventh day of October one thousand eight hundred and thirty-four; and that from and after the commencement thereof an act of the eighth and ninth years of the reign of king William the third, for the better observation of the course anciently used in the receipt of the exchequer; and also an act passed in the sixth year of the reign of king George the second, for obviating a doubt which might arise upon an act made in the fourth year of his said Majesty's reign as therein recited; and so much of an act passed in the twenty-third year of the reign of his late Majesty king George the Third, for establishing certain regulations in the receipt of his Majesty's exchequer, as relates to the use of an indented cheque receipt to be made out by the auditor, and as requires the custody of one of the keys to the teller's chests, the standard weights and measures, and the standard pieces of gold and silver, to be committed to the auditor; and so much of an act of the thirty-ninth and fortieth years of his said Majesty king George the third, for more effectually charging public accountants with the payment of interest, and for other purposes therein mentioned, as requires the commissioners for auditing the public accounts to transmit a certain account to the auditor of the exchequer, and requires the auditor to transmit to the said commissioners quarterly accounts of monies paid into the exchequer; and an act passed in the forty-sixth year of the reign of his said Majesty king George the third, to empower the auditor of the exchequer to constitute a trustee for the execution of the said office in the case therein mentioned; and so much of an act of the first and second years of the reign of his late Majesty king the fourth, for altering and abolishing certain forms of proceedings in the exchequer and audit office relative to public accounts, and for other purposes therein mentioned, as requires the transmission of general imprest rolls to the office of his Majesty's remembrancer, and as relates to imprest certificates; and so much of the provisions of any act or acts of parliament relating to the office of the receipt of his Majesty's exchequer as are altered by this act; shall be and the same are hereby repealed. Commence-
ment of act.
Repeal of
8 & 9 W. 3,
c. 28.
6 G. 2, c. 6.
Part of 23 G. 3,
c. 82.
Part of 39 & 40
G. 3, c. 54.
46 G. 3, c. 1.
Part of 1 & 2
G. 4, c. 121.

[No. IX.] 5 & 6 W. IV. c. 55.—An Act for facilitating the Appointment of Sheriffs in Ireland, and the more effectual Audit and passing of their Accounts, and for the more speedy Return and Recovery of Fines, Fees, Forfeitures, Recognizances, Penalties, and Deodands ; and to abolish certain Offices in the Court of Exchequer in Ireland ; and to amend the Laws relating to Grants in Custodiam and Recovery of Debts in Ireland ; and to amend an Act of the Second and Third Years of his present Majesty, for transferring the Powers and Duties of the Commissioners of Public Accounts in Ireland to the Commissioners for Auditing the Public Accounts of Great Britain.

PART IV.

CLASS XXIV.

ECCLESIASTICAL AND MARITIME COURTS.

[No. I.] 2 W. IV. c. 51.—An Act to regulate the Practice and the Fees in the Vice-Admiralty Courts abroad, and to obviate Doubts as to their Jurisdiction. [23rd June 1832.]

WHEREAS it is expedient that provision should be made for the regulation of the practice to be observed in the suits and proceedings in the courts of vice admiralty in his Majesty's possessions abroad, and for the establishment of fees to be allowed and taken in the said courts by the respective judges, officers, and practitioners therein: be it therefore enacted, &c., That it shall be lawful for his Majesty, with the advice of his privy council, from time to time to make and ordain such rules and regulations as shall be deemed expedient touching the practice to be observed in suits and proceedings in the several courts of vice admiralty at present or hereafter to be established in any of his Majesty's possessions abroad, and likewise from time to time to make, ordain, and establish tables of fees to be taken or received by the judges, officers, and practitioners in the said courts, for all acts to be done therein, and also from time to time, as shall be found expedient, to alter any such rules, regulations, and fees, and to make any new regulations and table or tables of fees; and that all such rules, regulations, and fees, after the same shall have been so made and established or altered, from time to time be entered or inrolled in the public books or records of the said courts, so far as such practice and fees shall relate or apply to each of such courts respectively.

His Majesty empowers to make regulations and establish fees in the vice-admiralty courts abroad.

Regulations and fees to be inrolled in the respective courts.

II. That a copy of every table of fees so to be from time to time made and established or altered shall be laid before the house of commons within three calendar months next after the making and establishment or alteration thereof respectively, if parliament shall be then sitting, and if not, then within one calendar month next after the subsequent meeting of parliament.

The tables of fees to be laid before the house of commons.

III. That the several fees so to be established, and no other, shall, from and after the making and establishment thereof, and the entry and inrolment thereof as aforesaid, be deemed and taken to be the lawful fees of the several judges, officers, ministers, and practitioners of the said respective courts; and such fees only shall and may be demanded, received, and taken accordingly.

Fees so established to be the only lawful fees.

IV. And to the intent that all such regulations and fees may be promulgated and publicly made known, be it further enacted, That the judge and registrar of every such court shall cause to be kept constantly hung up and preserved in some conspicuous part of every such court, and in the office of the registrar, a copy of the table of fees so to be from time to time ordained and established in such courts respectively, so that the said table may be seen and read by all persons having any business in any such court and office respectively; and that the books or records containing the entries of the said regulations and tables of fees, as the same shall be in force, shall be at all seasonable times open to the inspection of the practitioners and suitors in every such court.

Copies of the regulations and tables of fees to be hung up in each court.

V. That in all cases in which proceedings may be had in any of the said vice admiralty courts, if any person shall feel himself aggrieved by the charges made by any of the officers or practitioners therein, and the allowance thereof by such vice admiralty court, by reason that such charges are not warranted by the tables herein-before mentioned, it

Appeal to the high court of admiralty in cases of costs.

No. I.
2 W. 4, c. 51.

Vice-admiralty
courts to have
jurisdiction in
certain mari-
time causes.

shall be lawful for such person or his agent, under the regulations to be established in pursuance of the powers given by this act, by summary application to the high court of admiralty to have the said charges taxed by the authority thereof.

VI. And whereas in certain cases doubts may arise as to the jurisdiction of vice admiralty courts in his Majesty's possessions abroad, with respect to suits for seamen's wages, pilotage, bottomry, damage to a ship by collision, contempt in breach of the regulations and instructions relating to his Majesty's service at sea, salvage, and droits of admiralty; be it therefore enacted, That in all cases where a ship or vessel, or the master thereof, shall come within the local limits of any vice admiralty court, it shall be lawful for any person to commence proceedings in any of the suits herein-before mentioned in such vice admiralty court, notwithstanding the cause of action may have arisen out of the local limits of such court, and to carry on the same in the same manner as if the cause of action had arisen within the said limits.

[No. II.] 2 & 3 W. IV. c. 92.—An Act for transferring the Powers of the High Court of Delegates, both in Ecclesiastical and Maritime Causes, to his Majesty in Council.

[7th August 1832.]

25 H. 8, c. 19.

WHEREAS by an act passed in the twenty-fifth year of the reign of king Henry the eighth, and intituled *The Submission of the Clergy and Restraint of Appeals*, it is (amongst other things) provided, that for lack of justice at or in any of the courts of the archbishops of this realm, or in any of the king's dominions, it should be lawful to the parties grieved to appeal to the king's Majesty in the king's court of chancery; and that upon every such appeal a commission should be directed under the great seal to such persons as should be named by the king's highness, his heirs or successors, like as in case of appeal from the admiral's court, to hear and definitely determine such appeals, and the causes concerning the same; which commissioners so by the king's highness, his heirs or successors, to be named or appointed, should have full power and authority to hear and definitely determine every such appeal, with the causes and all circumstances concerning the same; and that such judgment and sentence as the said commissioners should make and decree in and upon any such appeal should be good and effectual, and also definitive, and that no further appeals should be had or made from the said commissioners for the same; and that all manner of provocations and appeals thereafter to be had, made, or taken, from the jurisdiction of any abbots, priors, or other heads and governors of monasteries, abbeys, priories, and other houses and places exempt, in such cases as they were wont or might afore the making of the act now in recital, by reason of grants or liberties of such places exempt, to have or make immediately any appeal or provocation to the bishop of Rome otherwise called pope, or to the see of Rome, in all those cases every person and persons having cause of appeal or provocation should and might take and make their appeals and provocations immediately to the king's Majesty of this realm, into the court of chancery, in the manner and form as they used afore to do to the see of Rome; which appeals and provocations so made should be definitively determined by authority of the king's commission in such manner and form as was in the said act now in recital above mentioned, so that no archbishop or bishop of this realm should intermit or meddle with any such appeals otherwise or in any other manner than they might have done afore the making of the act now in recital; any thing in the act now in recital to the contrary thereof notwithstanding: And whereas by an act passed in the eighth year of the reign of queen Elizabeth, and intituled *For the avoiding of tedious Suits in Civil and Marine Causes*, it is

provided that every such judgment and sentence definitive as should be given and pronounced in any civil and marine cause, upon appeal lawfully to be made therein to the queen's Majesty in her highness' court of chancery, by such commissioners or delegates as should be nominated and appointed by her Majesty, her heirs or successors, by commission under the half seal, as it had been theretofore used in such cases, should be final, and that no further appeal should be made from the said judgment or sentence definitive, or from the said commissioners or delegates, for or in the same; any law, usage, or custom to the contrary notwithstanding: And whereas the persons who from time to time have been appointed commissioners by commission under the great seal or under the half seal, by virtue of the authority of either of the herein-before recited acts, have been commonly called "The High Court of Delegates:" And whereas, notwithstanding the herein-before recited acts, the king's Majesty for the time being hath out of his royal favour occasionally granted, upon petition to him in council made for that purpose, a commission under the great seal authorizing the commissioners therein named to review the judgments and decrees of the high court of delegates so appointed as aforesaid. And whereas it is expedient that the herein-before recited act of the eighth year of queen Elizabeth, and also so much of the herein-before recited act of the twenty-fifth year of king Henry the eighth as relates to the appeal to his Majesty in chancery, should be repealed, and that all the powers which by virtue of either of the said acts have or might have been enjoyed by the said high court of delegates should be in future exercised by his Majesty in council, and that no such commission of review as aforesaid should hereafter be granted; be it therefore enacted, &c., That the herein-before recited act of the twenty-fifth year of the reign of king Henry the eighth, so far as relates to any power thereby given to appeal in any case to the king's Majesty in his high court of chancery, and so far as the same empowers his Majesty to grant a commission under the great seal authorizing the persons therein named to hear and determine such appeals, shall, as from the first day of February one thousand eight hundred and thirty-three, be and the same is hereby repealed.

II. That the herein-before recited act of the eighth year of the reign of queen Elizabeth shall, as from the first day of February one thousand eight hundred and thirty-three, be and the same is hereby repealed.

III. That from and after the said first day of February one thousand eight hundred and thirty-three it shall be lawful to and for every person who might heretofore, by virtue of either of the said recited acts, have appealed or made suit to his Majesty in his high court of chancery, to appeal or make suit to the king's Majesty, his heirs or successors, in council, within such time, in such manner, and subject to such rules, orders, and regulations for the due and more convenient proceeding, as shall seem meet and necessary, and upon such security, if any, as his Majesty, his heirs and successors, shall from time to time by order in council direct; and that the king's Majesty, his heirs and successors, in council, shall thereupon have power to proceed to hear and determine every appeal and suit so to be made by virtue of this act, and to make all such judgments, orders, and decrees in the matter of such appeal or suit as might heretofore have been made by his Majesty's commissioners appointed by virtue of either of the herein-before recited acts if this act had not been passed; and that every such judgment, order, and decree so to be made by the king's Majesty, his heirs and successors, shall have such and the like force and effect in all respects whatsoever as the same respectively would have had if made and pronounced by the aforesaid high court of delegates; and that every such judgment, order, and decree shall be final and definitive, and that no commission shall hereafter be granted or authorized to review any judgment or decree to be made by virtue of this act.

No. II.
2 & 3 W. 4,
c. 92.

25 H. 8, c. 19,
so far as relates
to the power of
appeal and to
the appointment of dele-
gates, repealed
from 1 Feb.
1833.

8 E., c. 5, re-
pealed from
1 Feb. 1833.

From 1 Feb.
1833, powers
of the high
court of dele-
gates trans-
ferred to the
King in coun-
cil; and no
commission of
review to be
thereafter
granted.

No. II.
2 & 3 W. 4,
c. 92.

Proviso for
appeals now
pending, or
which may be
pending previ-
ous to 1 Feb.
1833.

IV. Provided always, That nothing herein contained shall extend to affect any appeal now pending, or which before the said first day of February one thousand eight hundred and thirty-three may be pending, to his Majesty in chancery, by virtue of either of the herein-before recited acts, or to affect the right of his Majesty to grant any such commission under the great seal or under the half seal as aforesaid, to hear and adjudicate upon any appeal so now pending, or which may before the said first day of February one thousand eight hundred and thirty-three be pending; and that every judgment or decree of the said high court of delegates; by virtue of either of the said recited acts, already made or hereafter to be made, in any cause so now pending or which shall be so pending as aforesaid, shall have such and the like force and effect in all respects as if this act had not been passed.

[No. III.] 2 & 3 W. IV. c. 93.—An Act for enforcing the Process upon Contempts in the Courts Ecclesiastical of England and Ireland. [7th August 1832.]

WHEREAS great inconvenience has been found to arise by reason of the process of the several ecclesiastical courts in England and Ireland being inoperative and unavailable out of the limits of the respective jurisdictions of such courts, and against persons having privilege of peerage, lords of parliament, and members of the house of commons; and in many instances a failure of justice hath thereby ensued: And whereas it is expedient, for remedy thereof, that the process of the said several courts, and the means of enforcing obedience to the same, should be of equal force and have the like operation, as well in that part of the united kingdom of Great Britain and Ireland called England as in that part of the same united kingdom called Ireland, and as well against persons having privilege of peerage, lords of parliament, and members of the house of commons, as against all other his Majesty's subjects: Be it therefore enacted, &c., That in all causes which according to the laws of this realm are or may be cognizable in any of the several ecclesiastical courts, as well in that part of the united kingdom of Great Britain and Ireland called England as in that part of the same united kingdom called Ireland, when any person or persons, as well those which have or hereafter shall have privilege of peerage, or are or hereafter may be peers of parliament or members of the house of commons, as all others who shall happen to be domiciled or residing either in England or in Ireland, and beyond the limits of the jurisdiction of the court in which such causes have been or shall have been respectively instituted or commenced, or shall be depending, having been duly cited to appear in any such ecclesiastical court, whether in England or in Ireland, or required to comply with any lawful order or decree, as well final as interlocutory, which hath been or shall have been made by any such court respectively, shall neglect or refuse to pay obedience to any such lawful order or decree, or when any such person or persons shall commit a contempt in the face of such court, or any other contempt towards such court, or the process thereof, it shall be lawful for the judge or judges out of whose court the citation or process hath already issued or may hereafter issue, or whose lawful orders or decrees have not or shall not have been obeyed, or before whom such contempt in the face of the court shall be committed, or by whose order or authority such process in respect of or towards which any such contempt shall have been committed has been or shall be awarded or issued, or the successor or successors in office of such judge or judges respectively, to pronounce such person or persons contumacious and in contempt, and within ten days after such person or persons shall have been so pronounced to be contumacious and in contempt to signify the same to the lord chancellor, lord keeper or lords commissioners for the custody of the great seal of England for the time being respectively, whenever the person or persons who shall have been

Where persons residing beyond the jurisdiction of any ecclesiastical courts are cited to appear, &c. and refuse obedience, the judge thereof may pronounce them contumacious, and certify the same to the lord chancellor, &c. within ten days, and thereupon a writ de contumacia capiendis shall issue, unless the person be a peer, &c.

so pronounced contumacious and in contempt shall be domiciled or residing in England, and within the like period of ten days to signify the same to the lord chancellor, lord keeper or lords commissioners for the custody of the great seal of Ireland for the time being respectively, whenever the person or persons who shall have been so pronounced contumacious and in contempt shall be domiciled or residing in Ireland, in the form annexed to an act of parliament made and passed in the fifty-third year of the reign of his late Majesty king George the third, intituled *An Act for the better Regulation of Ecclesiastical Courts in England, and for the more easy Recovery of Church Rates and Tithes*; and thereupon, and in case the person so reputed to be in contempt shall not be a peer, lord of parliament, or member of the house of commons, a writ de contumace capiendo shall issue from his Majesty's said high court of chancery in England or in Ireland, as the case may happen, to be directed to the same persons to whom writs de excommunicato capiendo were by law returnable before the passing of the said act of parliament, and the same shall be returnable in like manner as the writ de excommunicato capiendo had been theretofore by law returnable, and shall have the same force and effect as the last-mentioned writ; and all rules and regulations not altered by the said act of the fifty-third year of his said Majesty George the third, and which before the passing the same act applied to the said writ de excommunicato capiendo, and the proceedings following thereupon, and particularly the several provisions contained in a certain act passed in the fifth year of the reign of queen Elizabeth, intituled *An Act for the due Execution of the Writ De excommunicato capiendo*, shall extend and be applied to the said writ de contumace capiendo, and the proceedings following thereupon, as if the same were herein particularly repeated and enacted; and the proper officers of the said two several high courts of chancery in England and Ireland, as the case may happen to be, are hereby authorized and required to issue such writ de contumace capiendo accordingly; and all sheriffs, gaolers, and other officers in England and in Ireland, as the case may happen to be, are hereby required and authorized to execute the same, by taking and detaining the body of the person or persons against whom the said writ shall be so directed to be executed; and upon the due appearance of the party or parties so cited and not having obeyed as aforesaid, or the due submission of the party or parties so having committed a contempt in the face of the court, or otherwise, as herein-before is mentioned, the judge or judges of such ecclesiastical court, whether in England or in Ireland, as the case may be, shall pronounce such party or parties absolved from the contumacy and contempt aforesaid, and shall forthwith make an order upon the sheriff, gaoler, or other officer in whose custody he, she, or they shall be, in the form to the said act of the fifty-third year of the reign of his said Majesty George the third annexed, for discharging such party or parties out of custody; and such sheriff, gaoler, and other officer shall, on the said order being shown to him, so soon as such party or parties shall have discharged the costs lawfully incurred by reason of such custody and contempt, forthwith discharge him, her, or them.

II. That in all such cases as are herein-before mentioned, and which are or may be cognizable in any or either of the several herein-before mentioned courts, when any person or persons, as well such person or persons as have or shall hereafter have privilege of peerage, or are or shall hereafter be lords of parliament or members of the house of commons; as others who shall happen to be domiciled or residing either in England or in Ireland, have been or shall have been ordered or required, by the lawful order or decree, final or interlocutory, of any such court respectively, to pay any sum or sums of money, and when any such person or persons, after having been duly monished, shall refuse or neglect to comply with such monition, and to pay the sum or sums of money therein ordered to be paid by him or them, within the time and in the manner in any such order or decree mentioned or expressed, or

53 G. 3, c. 127.

All regulations and provisions applying to the writ de excommunicato, and proceedings thereupon, shall be applied to the writ de contumace.
5 Eliz. c. 23.

Upon the appearance or submission of the party, the judge may order him to be absolved or discharged.

Where persons possessed of estates, &c. in England neglect to pay money ordered by the said courts, the judges may pronounce such persons contumacious, and certify the same to the lord chancellor, who shall cause pro

No. III.
2 & 3 W. 4,
c. 93.

cess of seques-
tration to issue
against the es-
tate of the party
in England

a peer or lord of parliament or member of the house of commons shall refuse or withhold obedience, or shall in any way neglect to perform or shall not perform any decree or order, final or interlocutory, of such courts as aforesaid, it shall be lawful for the judge or judges who shall have made such order or decree, or his or their successor or successors in office, to pronounce the person or persons so neglecting or refusing to comply with such order or decree contumacious and in contempt, and within ten days after such person or persons shall have been so pronounced contumacious and in contempt to cause a copy of such order or decree, under the seal of the court wherein the same shall have been made, or under the hand or hands of such judge or judges, or one of them, to be exemplified, and certified to the lord chancellor, lord keeper or lords commissioners for the custody of the great seal of England for the time being respectively, whenever the person or persons who shall have been so pronounced contumacious shall be domiciled or residing, or shall be seised or possessed of or entitled to any real or personal estate, goods, chattels, or effects, situate, lying, or being in England; and the said lord chancellor, lord keeper or lords commissioners for the custody of the great seal of England, shall forthwith cause such copy of such order or decree, when it shall be presented to them respectively, so exemplified, to be inrolled in the rolls of the high court of chancery in England, and shall thereupon cause process of sequestration to issue against the real and personal estate, goods, chattels, and effects, in England, of the party or parties against whom such order or decree shall have been made, in order to enforce obedience to and performance of the same, in the same manner and form, and with the like power and effect, as if the cause wherein such order or decree shall have been made had been originally cognizable by and instituted in the said court of chancery in England, and as if all and every the process of the said court of chancery in England ordinarily issuing in causes there pending antecedent to process of sequestration had been duly issued and returned in the last-mentioned court; and it shall and may be lawful for the said lord chancellor, lord keeper, or lords commissioners of the great seal in England, to make such order and orders in respect of or consequent upon such sequestration, or in respect of the real or personal estate, goods, chattels, or effects sequestered by virtue thereof, as he or they shall from time to time think fit, or for payment of all or any of the monies levied or received by virtue thereof into the bank of England, with the privy of the accountant general of the said court of chancery in England, to the credit and for the benefit of the party or parties who shall have obtained such order or decree, if the same was for payment of money, or if not, to the credit of the high court of chancery; and the governor and company of the bank of England are hereby authorized and required to receive and hold all such monies, subject to the orders of the said court of chancery: Provided always, That no such monies shall be charged with or subject to poundage when the same shall be paid out by order of the said court.

The like provi-
sion as to per-
sons posse-
d of estates, &c.
in Ireland.

III. That in all such causes as are herein before mentioned, and which are or may be cognizable in any of either of the several hereinbefore mentioned courts, when any person or persons, as well such person or persons as have or shall hereafter have privilege of peerage, or are or shall hereafter be lords of parliament or members of the house of commons, as others, who shall happen to be domiciled or residing either in England or in Ireland, hath or have been or shall have been ordered or required by the lawful order or decree, final or interlocutory, of any such court respectively, to pay any sum or sums of money, or to do any other act or thing, and when any such person or persons, after having been duly personally served with a copy or copies of such order or decree, shall refuse or neglect to comply therewith, or to pay the sum or sums of money therein ordered to be paid by him or them, or to do the act or thing required by such order to be done, within the time and

in the manner in any such order or decree mentioned or expressed, it shall be lawful for the judge or judges who shall have made such order or decree, or his or their successor or successors in office, to pronounce the person or persons so neglecting or refusing to comply with such order or decree contumacious and in contempt, and within ten days after such person or persons shall have been so pronounced contumacious and in contempt to cause a copy of such order or decree, under the seal of the court wherein the same shall have been made, or under the hand or hands of such judge or judges, or one of them, to be exemplified, and certified to the lord chancellor, lord keeper or lords commissioners for the custody of the great seal of Ireland, for the time being respectively, whenever the person or persons who shall have been so pronounced contumacious and in contempt shall be domiciled or residing, or shall be seised or possessed of or entitled to any real or personal estate, goods, chattels, or effects, situate, lying or being in Ireland, and within the like period of ten days and after such last-mentioned person or persons shall have been pronounced contumacious and in contempt to cause a copy of such order or decree to be exemplified, and certified in manner herein-before mentioned to the barons of his Majesty's court of exchequer in that part of the united kingdom called Ireland, whenever the person or persons who shall have been so pronounced contumacious and in contempt shall be domiciled or residing, or shall be seised or possessed of or entitled to any real or personal estate, goods, chattels, or effects, situate, lying, or being in Ireland; and the said lord chancellor, lord keeper or lords commissioners for the custody of the great seal of Ireland, shall forthwith cause such copy of such order or decree, when it shall be presented to them respectively, so exemplified, to be inrolled in the rolls of the high court of chancery in Ireland, and shall thereupon cause process of sequestration to issue against the real and personal estate, goods, chattels, and effects, in Ireland, of the party or parties against whom such order or decree shall have been made, in order to enforce obedience to and performance of the same, in the same manner and form, and with the like power and effect, as if the cause wherein such order or decree shall have been made had been originally cognizable by and instituted in the said court of chancery in Ireland, and as if all and every the process of the said court of chancery in Ireland ordinarily issuing in causes there pending antecedent to process of sequestration had been duly issued and returned in the last-mentioned court; and it shall and may be lawful for the said lord chancellor, lord keeper or lords commissioners of the great seal in Ireland, to make such order or orders in respect of or consequent upon such sequestration, or in respect of the real or personal estate, goods, chattels, or effects sequestered by virtue thereof, as he or they shall from time to time think fit, or for payment of all or any of the monies levied or received by virtue thereof into the bank of Ireland, with the privity of the accountant general of the said court of chancery in Ireland, to the credit and for the benefit of the party or parties who shall have obtained such order or decree, if the same was for the payment of money, or if not, then to the credit of the said high court of chancery; and the governor and company of the said bank of Ireland are hereby authorized and required to receive and hold all such monies, subject to the orders of the said court of chancery in Ireland: Provided always, That no such monies shall be charged with or subject to poundage for the usher of the said court of chancery in Ireland, or otherwise, when the same shall be paid out by order of the last-mentioned court.

IV. That none of the provisions of this act shall extend to any order or decree, or the refusing or neglecting to perform any order or decree, which shall have been made more than six years before the passing of this act.

V. That if any action or suit shall be brought or commenced for any thing done in pursuance of this act, every such action or suit shall be commenced within three calendar months next after the fact committed,

No. III
2 & 3 W. 4,
c. 93.

Act not to extend to orders made six years since.

Limitation of actions.

No. III.
2 & 3 W. 4,
c. 93.

General issue.

and not afterwards, and shall be laid and tried in the city or county wherein the cause of action shall have arisen, and not elsewhere ; and the defendant or defendants in such action or suit shall and may plead the general issue, and give this act and the special matter in evidence at any trial to be had thereupon, and that the same was done in pursuance or by the authority of this act ; and if the same shall appear to have been so done, or if any action or suit shall be brought after the time limited for bringing the same, or shall be laid in any other city, county, or place than as aforesaid, then the judge shall find for the defendant or defendants ; and upon such verdict, or if the plaintiff or plaintiffs shall be nonsuited, or suffer a discontinuance of their action or suit after the defendant or defendants shall have appeared, or if upon demurrer judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall have treble costs, and shall have such remedy for the same as any defendant or defendants hath or have for costs of suit in any other case by law.

Treble costs.

PART IV.

CLASS XXIV.—A.

PRIVY COUNCIL.

[No. I.] 3 & 4 W. IV. c. 41.—An Act for the better Administration of Justice in His Majesty's Privy Council.

[14th August 1833.]

WHEREAS by virtue of an act passed in a session of parliament of the second and third years of the reign of his present Majesty, intituled *An Act for transferring the Powers of the High Court of Delegates*, 2 & 3 W. 4, c. 92. both in Ecclesiastical and Maritime Causes, to his Majesty in Council, in was enacted, that from and after the first day of February one thousand eight hundred and thirty-three it should be lawful for every person who might theretofore, by virtue either of an act passed in the twenty-fifth year of the reign of king Henry the eighth, intituled *The submission of the Clergy and Restraint of Appeals*, or of an act passed in the eighth year of the reign of queen Elizabeth, intituled *For the avoiding of tedious suits in Civil and Marine Causes*, have appealed or made suit to his Majesty in his high court of chancery, to appeal or make suit to the king's Majesty, his heirs or successors, in council, within such time, in such manner, and subject to such rules, orders, and regulations for the due and more convenient proceeding, as should seem meet and necessary, and upon such security, if any, as his Majesty, his heirs and successors, should from time to time by order in council direct: And whereas, by letters patent under the great seal of Great Britain, certain persons, members of his Majesty's privy council, together with others, being judges and barons of his Majesty's courts of record at Westminster, have been from time to time appointed to be his Majesty's commissioners for receiving, hearing, and determining appeals from his Majesty's courts of admiralty in causes of prize: And whereas, from the decisions of various courts of judicature in the East Indies, and in the plantations, colonies, and other dominions of his Majesty abroad, an appeal lies to his Majesty in council: And whereas matters of appeal or petition to his Majesty in council have usually been heard before a committee of the whole of his Majesty's privy council, who have made a report to his Majesty in council, whereupon the final judgment or determination hath been given by his Majesty: And whereas it is expedient to make certain provisions for the more effectual hearing and reporting on appeals to his Majesty in council and on other matters, and to give such powers and jurisdiction to his Majesty in council as herein-after mentioned: Be it therefore enacted, &c., That the president for the time being of his Majesty's privy council, the lord high chancellor of Great Britain for the time being, and such of the members of his Majesty's privy council as shall from time to time hold any of the offices following, that is to say, the office of lord keeper or first lord commissioner of the great seal of Great Britain, lord chief justice or judge of the court of king's bench, master of the rolls, vice chancellor of England, lord chief justice or judge of the court of common pleas, lord chief baron or baron of the court of exchequer, judge of the prerogative court of the lord archbishop of Canterbury, judge of the high court of admiralty and chief judge of the court of bankruptcy, and also all persons members of his Majesty's privy council who shall have been president thereof or held the office of lord chancellor of Great Britain, or shall have held any of the other offices herein-before mentioned, shall form a committee of his Majesty's said privy council, and shall be styled "The

25 H. 8, c. 19.

8 Eliz. c. 5.

Certain persons to form a committee, to be styled "The Judicial Committee of the Privy Council."

No. I.
3 & 4 W. 4,
c. 41.

Appeals from
vice admiralty
courts abroad,
&c. to be made
to the king in
council.

All appeals
from sentence
of any judge,
&c. to be re-
ferred by his
Majesty to the
committee, to
report thereon.

His Majesty
may refer any
other matters
to committee.

No matter to
be heard unless
in presence of
four members
of the com-
mittee.

In case the king
directs the at-
tendance of any
judge, a mem-
ber of the com-
mittee, the
other judges of
the court to
which he be-
longs to make
arrangements
with regard to
the business of
the court.

Evidence may
be taken viva

Judicial Committee of the Privy Council: " Provided nevertheless, that it shall be lawful for his Majesty from time to time, as and when he shall think fit, by his sign manual, to appoint any two other persons, being privy councillors, to be members of the said committee.

II. That from and after the first day of June one thousand eight hundred and thirty-three all appeals or applications in prize suits and all other suits or proceedings in the courts of admiralty, or vice admiralty courts, or any other court in the plantations in America and other his Majesty's dominions or elsewhere abroad, which may now, by virtue of any law, statute, commission, or usage, be made to the high court of admiralty in England, or to the lords commissioners in prize cases, shall be made to his Majesty in council, and not to the said high court of admiralty in England or to such commissioners as aforesaid; and such appeals shall be made in the same manner and form and within such time wherein such appeals might, if this act had not been passed, have been made to the said high court of admiralty or to the lords commissioners in prize cases respectively; and that all laws or statutes now in force with respect to any such appeals or applications shall apply to any appeals to be made in pursuance of this act to his Majesty in council.

III. That all appeals or complaints in the nature of appeals whatever, which, either by virtue of this act, or of any law, statute, or custom, may be brought before his Majesty or his Majesty in council from or in respect of the determination, sentence, rule, or order of any court, judge, or judicial officer, and all such appeals as are now pending and unheard, shall from and after the passing of this act be referred by his Majesty to the said judicial committee of his privy council, and that such appeals, causes, and matters shall be heard by the said judicial committee, and a report or recommendation thereon shall be made to his Majesty in council for his decision thereon as heretofore, in the same manner and form as has been heretofore the custom with respect to matters referred by his Majesty to the whole of his privy council or a committee thereof, (the nature of such report or recommendation being always stated in open court).

IV. That it shall be lawful for his Majesty to refer to the said judicial committee for hearing or consideration any such other matters whatsoever as his Majesty shall think fit, and such committee shall thereupon hear or consider the same, and shall advise his Majesty thereon in manner aforesaid.

V. That no matter shall be heard, nor shall any order, report, or recommendation be made by the said judicial committee, in pursuance of this act, unless in the presence of at least four members of the said committee; and that no report or recommendation shall be made to his Majesty unless a majority of the members of such judicial committee present at the hearing shall concur in such report or recommendation: Provided always, that nothing herein contained shall prevent his Majesty if he shall think fit, from summoning any other of the members of his said privy council to attend the meetings of the said committee.

VI. That in case his Majesty shall be pleased, by directions under his sign manual, to require the attendance at the said committee for the purposes of this act of any member or members of the said privy council who shall be a judge or judges of the court of king's bench, or of the court of common pleas, or of the court of exchequer, such arrangements for dispensing with the attendance of such judge or judges upon his or their ordinary duties during the time of such attendance at the privy council as aforesaid shall be made by the judges of the court or courts to which such judge or judges shall belong respectively in regard to the business of the court, and by the judges of the said three courts, or by any eight or more of such judges, including the chiefs of the several courts, in regard to all other duties, as may be necessary and consistent with the public service.

VII. That it shall be lawful for the said judicial committee, in any

matter which shall be referred to such committee, to examine witnesses by word of mouth, (and either before or after examination by deposition,) or to direct that the depositions of any witness shall be taken in writing by the registrar of the said privy council, to be appointed by his Majesty as herein-after mentioned, or by such other person or persons, and in such manner, order, and course as his Majesty in council or the said judicial committee shall appoint and direct; and that the said registrar and such other person or persons so to be appointed shall have the same powers as are now possessed by an examiner of the high court of chancery or of any court ecclesiastical.

VIII. That in any matter which shall come before the said judicial committee it shall be lawful for the said committee to direct that such witnesses shall be examined or re-examined and as to such facts as to the said committee shall seem fit, notwithstanding any such witness may not have been examined, or no evidence may have been given on any such facts in a previous stage of the matter; and it shall also be lawful for his Majesty in council, on the recommendation of the said committee, upon any appeal, to remit the matter which shall be the subject of such appeal to the court from the decision of which such appeal shall have been made, and at the same time to direct that such court shall rehear such matter, in such form, and either generally or upon certain points only, and upon such rehearing take such additional evidence, though before rejected, or reject such evidence before admitted, as his Majesty in council shall direct: and further, on any such remitting or otherwise, it shall be lawful for his Majesty in council to direct that one or more feigned issue or issues shall be tried in any court in any of his Majesty's dominions abroad, for any purpose for which such issue or issues shall to his Majesty in council seem proper.

IX. That every witness who shall be examined in pursuance of this act shall give his or her evidence upon oath, or if a Quaker or Moravian upon solemn affirmation, which oath and affirmation respectively shall be administered by the said judicial committee and registrar, and by such other person or persons as his Majesty in council or the said judicial committee shall appoint; and that every such witness who shall wilfully swear or affirm falsely shall be deemed guilty of perjury, and shall be punished accordingly.

X. That it shall be lawful for the said judicial committee to direct one or more feigned issue or issues to be tried in any court of common law, and either at bar, before a judge of assize, or at the sittings for the trial of issues in London or Middlesex, and either by a special or common jury, in like manner and for the same purpose as is now done by the high court of chancery.

XI. That it shall be in the discretion of the said judicial committee to direct that, on the trial of any such issue, the depositions already taken of any witness who shall have died, or who shall be incapable to give oral testimony, shall be received in evidence; and further, that such deeds, evidences, and writings shall be produced, and that such facts shall be admitted, as to the said committee shall seem fit.

XII. That it shall be lawful for the said judicial committee to make such and the like orders respecting the admission of persons, whether parties or others, to be examined as witnesses upon the trial of any such issues as aforesaid, as the lord high chancellor or the court of chancery has been used to make respecting the admission of witnesses upon the trial of issues directed by the lord chancellor or the court of chancery.

XIII. That it shall be lawful for the said judicial committee to direct one or more new trial or new trials of any issue, either generally or upon certain points only; and that in case any witness examined at a former trial of the same issue shall have died, or have, through bodily or mental disease or infirmity, become incapable to repeat his testimony, it shall be lawful for the said committee to direct that parol evidence of the testimony of such witness shall be received.

No. I.
3 & 4 W. 4,
c. 41.

voce, or upon
written deposi-
tions.

Committee may
order any par-
ticular wit-
nesses to be
examined, and
as to any par-
ticular facts,
and may remit
causes for re-
hearing.

Witnesses to be
examined on
oath, and to be
liable to punish-
ment for
perjury.

Committee may
direct an issue
to try any fact;

may, in certain
cases, direct
depositions to
be read at the
trial of the
issue;

may make such
orders as to the
admission of
evidence as is
made by the
court of chan-
cery;

and may direct
new trials of
issues.

No. I.
3 & 4 W. 4,
c. 41.

Powers, &c. of
13 G. 3, c. 63,
and 1 W. 4, c. 22,
with regard to
examination of
witnesses ap-
plied to the ju-
dicial com-
mittee.

Costs to be in
the discretion
of the com-
mittee.

Decrees to be
enrolled.

Committee may
refer matters to
registrar in
same manner
as matters are
by court of
chancery re-
ferred to a
master.

The king may
appoint regis-
trar.

Attendance of
witnesses, and
production of
papers, &c.
may be com-
pelled by
subpoena.

Time of ap-
pealing.

Decrees for
courts abroad
'o be carried

XIV. And whereas by an act passed in the thirteenth year of his late Majesty king George the third, intituled *An Act for establishing certain Regulations for the better Management of the Affairs of the East India Company, as well in India as in Europe*, and by an act passed in the first year of the reign of his present Majesty, and intituled *An Act to enable the Courts of Law to order the Examination of Witnesses upon Interrogatories and otherwise*, certain powers are given to certain courts therein mentioned to enforce, and provisions are made for the examination of witnesses by commission, upon interrogatories and otherwise; be it therefore further enacted, That all the powers and provisions contained in the two last mentioned acts, or either of them, shall extend to and be exercised by the said judicial committee in all respects as if such committee had been therein named as one of his Majesty's courts of law at Westminster.

XV. That the costs incurred in the prosecution of any appeal or matter referred to the said judicial committee, and of such issues as the same committee shall under this act direct, shall be paid by such party or parties, person or persons, and be taxed by the aforesaid registrar, or such other person or persons, to be appointed by his Majesty in council or the said judicial committee, and in such manner as the said committee shall direct.

XVI. That the orders or decrees of his Majesty in council made, in pursuance of any recommendation of the said judicial committee, in any matter of appeal from the judgment or order of any court or judge, shall be enrolled, for safe custody, in such manner, and the same may be inspected and copies thereof taken under such regulations, as his Majesty in council shall direct.

XVII. That it shall be lawful for the said committee to refer any matters to be examined and reported on to the aforesaid registrar, or to such other person or persons as shall be appointed by his Majesty in council or by the said judicial committee, in the same manner and for the like purposes as matters are referred by the court of chancery to a master of the said court; and that for the purposes of this act the said registrar and the said person or persons so to be appointed shall have the same powers and authorities as are now possessed by a master in Chancery.

XVIII. That it shall be lawful for his Majesty, under his sign manual, to appoint any person to be the registrar of the said privy council, as regards the purposes of this act, and to direct what duties shall be performed by the said registrar.

XIX. That it shall be lawful for the president for the time being of the said privy council to require the attendance of any witnesses, and the production of any deeds, evidences, or writings, by writ to be issued by such president in such and the same form, or as nearly as may be, as that in which a writ of subpoena ad testificandum or of subpoena duces tecum is now issued by his Majesty's court of king's bench at Westminster; and that every person disobeying any such writ so to be issued by the said president shall be considered as in contempt of the said judicial committee, and shall also be liable to such and the same penalties and consequences as if such writ had issued out of the said court of king's bench, and may be sued for such penalties in the said court.

XX. That all appeals to his Majesty in council shall be made within such times respectively within which the same may now be made, where such time shall be fixed by any law or usage, and where no such law or usage shall exist, then within such time as shall be ordered by his Majesty in council; and that, subject to any right subsisting under any charter or constitution of any colony or plantation, it shall be lawful for his Majesty in council to alter any usage as to the time of making appeals, and to make any order respecting the time of appealing to his Majesty in council.

XXI. That the order or decree of his Majesty in council on any appeal from the order, sentence, or decree of any court of justice in the East

Indies, or of any colony, plantation, or other his Majesty's dominions abroad, shall be carried into effect in such manner, and subject to such limitations and conditions, as his Majesty in council shall, on the recommendation of the said judicial committee, direct; and it shall be lawful for his Majesty in council, on such recommendation, by order, to direct that such court of justice shall carry the same into effect accordingly, and thereupon such court of justice shall have the same powers of carrying into effect and enforcing such order or decree as are possessed by or are hereby given to his Majesty in council: Provided always, That nothing in this act contained shall impeach or abridge the powers, jurisdiction, or authority of his Majesty's privy council as heretofore exercised by such council, or in anywise alter the constitution or duties of the said privy council, except so far as the same are expressly altered by this act, and for the purposes aforesaid.

No. I
3 & 4 W. 4,
c. 41.

into effect as
the king in
council shall
direct.

Act not to
abridge powers
of privy council.

XXII. And whereas various appeals to his Majesty in council from the courts of Sudder Dewanny Adawlut at the several presidencies of Calcutta, Madras, and Bombay in the East Indies, have been admitted by the said courts, and the transcripts of the proceedings in appeal have been from time to time transmitted under the seal of the said courts, through the united company of merchants in England trading to the East Indies, to the office of his Majesty's said privy council, but the suitors in the causes so appealed have not taken the necessary measures to bring on the same to a hearing; be it therefore further enacted by the authority aforesaid, That it shall be lawful for his Majesty in council to give such directions to the said united company and other persons for the purpose of bringing to a hearing before the said committee the several cases appealed or hereafter to be appealed to his Majesty in council from the several courts of Sudder Dewanny Adawlut in the East Indies, and for appointing agents and counsel for the different parties in such appeals, and to make such orders for security and payment of the costs thereof, as his said Majesty in council shall think fit; and thereupon such appeals shall be heard and reported on to his Majesty in council, and shall be by his Majesty in council determined in the same manner, and the judgments, orders, and decrees of his Majesty in council thereon shall be of the same force and effect, as if the same had been brought to a hearing by the direction of the parties appealing in the usual course of proceeding: Provided always, That such such last-mentioned powers shall not extend to any appeals from the said courts of Sudder Dewanny Adawlut other than appeals in which no proceedings have been or shall hereafter be taken in England on either side for a period of two years subsequent to the admission of the appeal by such court of Sudder Dewanny Adawlut.

His Majesty
may direct the
East India
company to
bring on ap-
peals from the
Sudder De-
wanny Adawlut
courts to a
hearing.

XXIII. That in any case where any order shall have been made on any such appeal as last aforesaid, the same shall have full force and effect notwithstanding the death of any of the parties interested therein; but that in all cases where any such appeal may have been withdrawn or discontinued, or any compromise made in respect of the matter in dispute, before the hearing thereof, then the determination of his Majesty in council in respect of such appeal shall have no effect.

Orders made
on such appeals
to have effect
notwithstand-
ing death of
parties, &c.

XXIV. That it shall be lawful for his Majesty in council from time to time to make any such rules and orders as may be thought fit for the regulating the mode, form, and time of appeal to be made from the decisions of the said courts of Sudder Dewanny Adawlut, or any other courts of judicature in India or elsewhere to the eastward of the Cape of Good Hope (from the decisions of which an appeal lies to his Majesty in council), and in like manner from time to time to make such other regulations for the preventing delays in the making or hearing such appeals, and as to the expences attending the said appeals, and as to the amount or value of the property in respect of which any such appeal may be made.

His Majesty
empowered to
make orders
for regulating
the mode, &c.
of such ap-
peals.

XXV. And whereas by an act of parliament passed in the fifty-seventh year of the reign of his Majesty king George the third, intituled

His Majesty
empowered to

No. I.
3 & 4 W. 4,
c. 41.

appoint one of
the barons of
the court of
exchequer to
sit in equity in
the absence of
the chief baron.

An Act to facilitate the hearing and determining of Suits in Equity in His Majesty's Courts of Exchequer at Westminster, it was enacted that the lord chief baron of the said court for the time being should have power to hear and determine all causes, matters, and things which should be at any time depending in the said court of exchequer as a court of equity, and that if the said lord chief baron of the court of exchequer should by sickness or any other unavoidable cause be prevented from sitting on the equity side of the said court for the purposes in the said act mentioned, then it should and might be lawful for his Majesty and his successors to nominate and appoint from time to time by warrant under the royal sign manual, revocable at pleasure, any one other of the barons of the degree of the coif of the said court for the time being, to hear and determine the causes, matters, and things in the said act mentioned: And whereas by reason of the great increase of business on the common law or plea side of the said court of exchequer the lord chief baron is prevented from giving so much time as heretofore to the sittings on the equity side of the said court, and the sittings on such equity side of the said court being necessarily suspended during the absence of the lord chief baron, great inconvenience is thereby sustained by the suitors and practitioners on the equity side of the said court: And whereas the lord chief baron may by this act become liable to the performance of other additional duties unconnected with the said court of exchequer, and it is desirable that the said court of exchequer should sit as a court of equity without any unnecessary interruption, for the purpose of hearing and determining causes, matters, and things depending in the said court as a court of equity: And whereas doubts have arisen whether or not the above-recited act extends to cases of the lord chief baron being prevented from sitting by the performance of judicial duties elsewhere; be it therefore declared and enacted, That it shall and may be lawful for his Majesty and his successors to nominate and appoint from time to time by warrant under the royal sign manual, revocable at pleasure, any one of the barons of the degree of the coif of the said court for the time being to hear and determine (on such days as the lord chief baron of the said court shall sit on the common law side of the said court during the term, or shall preside at the sittings at nisi prius in London or Middlesex after the term, or shall attend at the judicial committee of his Majesty's privy council under the provisions of this act) all causes, matters, and things which shall at any time be depending in the said court of exchequer as a court of equity.

Two judges of
the court of
bankruptcy to
act for the chief
judge of the
court of review
during his at-
tendance at the
said judicial
committee.

XXVI. That during the absence of the chief judge in bankruptcy from the court of review established by virtue of an act passed in the first and second year of his present Majesty, intituled *An Act to establish a Court in Bankruptcy*, by reason of his attendance at the said judicial committee by virtue of this act, any two judges of the said court shall and may form a court of review in bankruptcy, and shall and may make, do, and execute all orders, acts, matters, powers, and things whatsoever which by virtue of the said act the judges of the said court or any three of them are authorized to make, do, or execute, and in all respects whatsoever as if three of the said judges were present, except that nothing herein contained shall authorize any two judges of the said court to hear and determine any matter brought under the review of the said court by way of appeal from the determination or decision of any commissioner or subdivision court appointed by virtue of the said act.

Powers of act
57 G. 3 extend-
ed to this act.

XXVII. That all the clauses and provisions contained in the said act of parliament which relate to the baron nominated and appointed under that act shall apply and be extended to the baron nominated and appointed under the authority of this act.

Power of en-
forcing decrees.

XXVIII. That the said judicial committee shall have and enjoy in all respects such and the same power of punishing contempts and of compelling appearances, and that his Majesty in council shall have and enjoy in all respects such and the same powers of enforcing judgments, decrees, and orders, as are now exercised by the high court of chancery

or the court of king's bench, (and both *in personam* and *in rem*.) or as are given to any court ecclesiastical by an act of parliament passed in a session of parliament of the second and third years of the reign of his present Majesty, intituled *An Act for enforcing the Process upon Contempts in the Courts Ecclesiastical of England and Ireland*; and that all such powers as are given to courts ecclesiastical, if of punishing contempts or of compelling appearances, shall be exercised by the said judicial committee, and if of enforcing decrees and orders shall be exercised by his Majesty in council, in such and the same manner as the powers in and by such act of parliament given, and shall be of as much force and effect as if the same had been thereby expressly given to the said committee or to his Majesty in council.

No. I.
3 & 4 W. 4,
c. 41.

2 & 3 W. 4,
c. 93.

XXIX. That, subject to such orders as his Majesty in council shall from time to time make, it shall be lawful for the present registrar of the high court of Admiralty, if he shall so think fit, either in person or by deputy, to attend the hearing by the said judicial committee of all causes and appeals which, but for this act or the said last-mentioned act, would have been heard by any court or commission which such registrar was entitled to attend, in person or by deputy, by virtue of his offices of registrar of the high courts of admiralty, delegates, and appeals for prizes, and likewise, subject to any order of his Majesty in council, to transact, perform, and do all acts, matters, and things that shall be found necessary, or have heretofore been done by the said registrar or his deputies in respect of such causes and appeals.

Registrar of
court of admi-
ralty may
attend the said
judicial com-
mittee.

XXX. That two members of his Majesty's privy council who shall have held the office of judge in the East Indies or any of his Majesty's dominions beyond the seas, and who, being appointed for that purpose by his Majesty, shall attend the sittings of the judicial committee of the privy council, shall severally be entitled to receive over and above any annuity granted to them in respect of having held such office as aforesaid, the sum of four hundred pounds for every year during which they shall so attend as aforesaid, as an indemnity for the expence which they may thereby incur; and such sum of four hundred pounds shall be chargeable upon and paid out of the consolidated fund of the united kingdom of Great Britain and Ireland.

Retired judges
attending the
judicial com-
mittee to re-
ceive an allow-
ance.

XXXI. Provided always, That nothing herein contained shall be held to impeach or render void any treaty or engagement already entered into by or on behalf of his Majesty, or be taken to restrain his Majesty from acceding to any treaty, with any foreign prince, potentate, or power, in which treaty it shall be stipulated that any person or persons other than the said judicial committee shall hear and finally adjudicate appeals from his Majesty's courts of admiralty in causes of prize, but that the judgments, decrees, and orders of such other person or persons so appointed by treaty shall be of the same force and effect of which they would respectively have been if this act had not been passed.

Nothing herein
shall prevent
the King's ac-
ceding to trea-
ties appointing
certain persons
to hear prize
appeals.

PART IV.

CLASS XXV.

COURTS OF EQUITY. (1)

[No. I.] 1 W. IV. c. 36.—An Act for altering and amending the Law regarding Commitments by Courts of Equity for Contempts, and the taking Bills *pro Confesso*.

[16th July 1830.]

5 G. 2, c. 25. WHEREAS by two several acts, the one passed in the fifth year of the reign of his late Majesty George the second, intituled *An Act for making Process in Courts of Equity effectual against Persons who abscond and cannot be served therewith, or refuse to appear*; and the other, passed in the forty-fifth year of the reign of his late Majesty king George the third, intituled *An Act to amend an Act passed in the Fourth Year of His present Majesty, intituled 'An Act for preventing inconveniences arising in cases of Merchants, and such other persons as are within the description of the statutes relating to Bankrupts, being entitled to privilege of Parliament and becoming insolvent, and to prevent delay in the entering appearances in actions brought against Persons having Privilege of Parliament'*; certain provisions were made for entering appearances and taking bills in equity *pro confesso*: And whereas it is expedient to alter and amend and to consolidate the laws on that subject; and it is also expedient to alter and amend the law relating to commitments by courts of equity for contempts; be it therefore enacted, &c., That the whole of the said recited act of the fifth year of king George the second, and so much of the said recited act of the forty-fifth year of his late Majesty George the third, as relates to courts of equity, and the reading of bills of discovery as evidence, shall be and the same are hereby repealed; but so as not to affect any thing done or executed in pursuance thereof respectively; and any suit, matter, or thing now in progress under the authority of the said acts respectively, and not completed, shall or may be completed under the powers of this act; and all the powers of this act shall or may be exercised as well in regard to new suits, commitments, discharges, conveyances, fines, recoveries, matters, or things, as to suits, commitments, discharges, conveyances, fines, recoveries, matters, or things now subsisting or remaining to be made, done, or perfected, whether the powers of the said acts or any of them respectively shall or shall not have been applied thereto.

Recited act 5 G. 2, and so much of 45 G. 3, as relates to courts of equity, and the reading of bills of discovery as evidence, repealed.

Warden of the fleet to keep a register of persons committed, and report four times a year to the lord chancellor.

Manner of proceeding in case of persons not appearing

II. That the warden of the Fleet prison shall keep a register of the names of all persons committed by the courts of equity for contempts, stating the dates and the grounds of their several commitments, and the dates of their respective discharges, and shall, on the twentieth day of January, the twentieth day of April, the twentieth day of July, and the twentieth day of October, in every year, make a report to the lord chancellor of the names and descriptions of such prisoners in his custody on each of such days respectively, with the causes and dates of their respective commitments.

III. And whereas sometimes persons have withdrawn themselves beyond the seas, or otherwise absconded, to avoid appearing in courts of equity, or being served with process for that purpose, or being brought

(1) For the acts with respect to conveyances by infants, lunatics, &c. and the powers of the courts of equity in relation thereto, see *ante*, Part II., Class VI.

into court by habeas corpus, have refused to appear; for remedy of the inconvenience thence ensuing, be it further enacted, That if in any suit which hath been or hereafter shall be commenced in any court of equity, any defendant against whom any subpoena or other process shall issue, shall not cause his appearance to be entered upon such process within such time and in such manner as according to the rules of the court the same ought to have been entered in case such process had been duly served, and an affidavit or affidavits shall be made to the satisfaction of such court that such defendant is beyond the seas, or that upon inquiry at his usual place of abode he could not be found so as to be served with such process, and that there is just ground to believe that such defendant is gone out of the realm, or otherwise absconded, to avoid being served with the process of such court; then and in such case the court out of which such process issued, may make an order directing and appointing such defendant to appear at a certain day therein to be named, and a copy of such order shall, within fourteen days after such order made, be inserted in the *London Gazette*, and published on some Lord's day immediately after Divine Service in the parish church of the parish where such defendant made his usual abode within thirty days next before such his absenting; and also a copy of such order shall, within the time aforesaid, be posted up as after mentioned; (that is to say,) a copy of every such order made in his Majesty's high court of chancery, court of exchequer, or the court of the duchy chamber of Lancaster at Westminster, shall be posted up in some public place at the royal exchange in London; and a copy of every such order made in any of the courts of equity of the counties palatine of Chester, Lancaster, and Durham, or of the great sessions in Wales, shall be posted up at some public place in some market town within the jurisdiction of the court by which such order was made, and nearest to the place where such defendant made his usual abode as aforesaid, such place of abode being also within the jurisdiction of the said court; and if the defendant do not appear within the time limited by such order, or within such further time as the court shall appoint, then on proof made of such publication of such order as aforesaid, the court being satisfied of the truth thereof, may order the plaintiff's bill to be taken *pro confesso*, and make such decree thereupon as shall be thought just, (1) and may thereupon issue process to compel the performance of such decree, either by an immediate sequestration of the real and personal estate and effects of the party so absenting (if any such can be found), or such part thereof as may be sufficient to satisfy the demands of the plaintiff in the said suit, or by causing possession of the estate or effects demanded by the bill to be delivered to the plaintiff, or otherwise, as the nature of the case shall require; and the said court may likewise order such plaintiff to be paid and satisfied his demands out of the estate or effects so sequestered, according to the true intent and meaning of such decree, such plaintiff first giving sufficient security, in such sum as the court shall think proper, to abide such order touching the restitution of such estate or effects as the court shall think proper to make concerning the same, upon the defendant's appearance to defend such suit, and paying such costs to the plaintiff as the court shall order; but in case such plaintiff shall refuse or neglect to give such security as aforesaid, then the said court shall order the estate or effects so sequestered, or whereof the possession shall be decreed to be delivered, to remain under the direction of the court, either by appointing a receiver thereof, or otherwise, as to such court shall seem meet, until the appearance of the defendant to defend such suit, and his paying such

No. I.

1 W. 4, c. 36.

within the usual time after subpoena or other process has been issued.

(1) Where a defendant, who is the only defendant, absconds, the bill cannot be taken *pro confesso* against him under this statute on motion, but the cause must be set down for hearing; *Baker v. Keen*, 4 Simons, 498.

No. I.
1 W. 4, c. 36.

Persons in custody so neglecting, to be served with a copy of the decree.

Persons out of the realm affected by such decrees, if they return within seven years, to be served with a copy; or in case of death, their heirs, &c.

Persons not petitioning a rehearing of the cause within six months, the decree to be absolutely confirmed.

Persons petitioning a rehearing within seven years, and giving security for costs, admitted to answer, and the cause to be heard again.

Persons not appearing within seven years, and making such petition, to be absolutely barred.

costs to the plaintiff as the said court shall think reasonable, or until such order shall be made therein as the court shall think just.

IV. Provided always, That if any person against whom any decree shall be made upon refusal or neglect to enter his appearance, or appoint a clerk in court or attorney to act on his behalf, shall be in custody or forthcoming, so that he may be served with a copy of such decree, then he shall be served with a copy thereof before any process shall be taken out to compel the performance thereof.

V. Provided also, That if any decree shall be made in pursuance of this act against any person being out of the realm or absconding, in manner aforesaid, at the time such decree is pronounced, and such person shall, within seven years after the making such decree, return, or become publicly visible, then and in such case he shall likewise be served with a copy of such decree within a reasonable time after his return or public appearance shall be known to the plaintiff; and in case any defendant against whom such decree shall be made shall, within seven years after the making such decree, happen to die before his or her return into this realm or appearing openly as aforesaid, or shall, within the time last before mentioned, die in custody before his or her being served with a copy of such decree, then his or her heir, if such defendant shall have any real estate sequestered, or whereof possession shall have been delivered to the plaintiff, and such heir may be found, or if such heir shall be a feme covert, infant, or non compos mentis, the husband, guardian, or committee of such heir respectively, or if the personal estate of such defendant be sequestered, or possession thereof delivered to the plaintiff, then his executor or administrator (if any such there be), may and shall be served with a copy of such decree, within a reasonable time after it shall be known to the plaintiff that the defendant is dead, and who is his heir, executor, or administrator, or where he may be served therewith.

VI. Provided always, That if any person so served with a copy of such decree shall not, within six months after such service, appear and petition to have the said cause reheard, such decree so made as aforesaid shall stand absolutely confirmed against the person so served with a copy thereof, his heirs, executors, and administrators, and all persons claiming or to claim by, from, or under him, or any of them, by virtue of any act done or to be done subsequent to the commencement of such suit.

VII. Provided always, That if any person so served with a copy of such decree shall within six months after such service, or if any person not being so served shall within seven years next after the making such decree, appear in court and petition to be heard with respect to the matter of such decree, and shall pay down or give security for payment of such costs as the court shall think reasonable in that behalf, the person so petitioning, or his representatives, or any person claiming under him by virtue of any act done before the commencement of the suit, may be admitted to answer the bill exhibited, and issue may be joined, and witnesses on both sides examined; and such other proceedings, decree, and execution may be had thereon, as there might have been in case the same party had originally appeared, and the proceedings had then been newly begun, or as if no former decree or proceedings had been in the same cause.

VIII. Provided always, That if any person against whom such decree shall be made, his heirs, executors, or administrators, shall not, within seven years next after the making of such decree, appear and petition to have the cause reheard, and pay down or give security for payment of such costs as the court shall think reasonable in that behalf, such decree made as aforesaid shall stand absolutely confirmed against the person against whom such decree shall be made, his heirs, executors, and administrators, and against all persons claiming or to claim by, from, or under him, or any of them, by virtue of any act done or to be done subsequent to the commencement of such suit; and at the end of such

seven years it shall and may be lawful for the court to make such further order as shall be just and reasonable according to the circumstances of the case.

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1 W. 4, c. 36.

IX. Provided always, That this act shall not extend or be construed to extend to warrant or make good any proceeding against any person beyond the seas, unless it shall appear to the satisfaction of the court by affidavit or affidavits, before the making of such decree, that such person had been in that part of Great Britain called England within two years next before the subpoena in such suit issued against such person.

Not to affect persons beyond the seas, unless in certain cases

X. Provided also, That the provisions hereinbefore contained shall not extend or be construed to extend to warrant or make good any proceeding against any person in any court of equity having a limited jurisdiction, unless it shall appear to the satisfaction of such court by affidavit, before the making of such decree, that such person had resided within the jurisdiction of such court within one year next before the subpoena in such suit issued against such person.

As to courts having a limited jurisdiction.

XI. That from and after the passing of this act, if any defendant, by virtue of any writ of habeas corpus or other process issuing out of any court of equity, shall be brought into court, and shall refuse or neglect, or, being within the walls of any prison in England under or charged with an attachment or other process of contempt, shall, after fourteen days' previous notice in writing requiring him to enter an appearance, refuse or neglect to enter his appearance according to the rules or method required by the said court, or to appoint a clerk in court or attorney of such court to act on his behalf, such court may appoint a clerk in court or attorney of such court to enter an appearance for such defendant, and such proceedings may thereupon be had in the cause as if the party had actually appeared.

Defendants brought into court by habeas corpus, or in custody, and refusing to enter appearance, court may enter it for them.

XII. And whereas in many cases persons having privilege of parliament are named as defendants in suits instituted in courts of equity against them, either alone or jointly with other persons, for enforcing against them demands and duties cognizable in courts of equity, and in some cases such defendants having privileges of parliament have stood out to the return of process of sequestration issued against them for enforcing appearance, and such process of sequestration hath not been found sufficient to enforce such appearance; be it therefore enacted, That from and after the passing of this act, in case any defendant having privilege of parliament shall, upon a return of process of sequestration issued against him for not putting in an appearance to any original or other bill of complaint instituted against him in a court of equity for enforcing discovery and relief, or discovery alone (as the case may be), neglect to appear, that then and in such case such court, upon producing the return of such sequestration in court, may, on the motion or other application of the plaintiff in such cause, appoint a clerk in court to enter an appearance for such defendant so having privilege of parliament, and such proceedings may be thereupon had in the cause as if the party had actually appeared.

Appearances may be put in for defendants having privilege of parliament in courts of equity, on return of process of sequestration.

XIII. And whereas in many cases it is necessary, on the part of the persons having legal rights against persons having privilege of parliament, to proceed by bill in equity against such persons so having privilege of parliament, to obtain from them discovery on oath of facts intended to be used or given in evidence in courts of law against the persons making such discovery; and in cases where such persons having such privilege as aforesaid shall stand out process of contempt, parties entitled to such discovery against them have not sufficient means of compelling or obtaining the same in all cases; be it therefore enacted, That from and after the passing of this act, when any defendant having privilege of parliament shall have appeared to any bill filed against him seeking a discovery upon oath, or when an appearance shall have been entered for such defendant according to the provisions aforesaid, and such person shall refuse or neglect to put in his answer to such bill

In default of answer to bill in equity against persons having privilege of parliament, bill shall be taken pro confesso.

No. I.
1 W. 4, c. 36.

Such bill shall be read in evidence as an answer admitting the facts.

Rules for courts of equity.

within the time for that purpose allowed by the rules and orders of such court, than then it shall and may be lawful for the plaintiff in such suit to apply to the court for an order that such bill shall be taken *pro confesso* against such defendant, and upon such application such court of equity shall make an order that such bill shall be taken *pro confesso*, unless the defendant shall within eight days after being served with such order shew good cause to the contrary.

XIV. That when and so soon as any such order shall have been pronounced by any such court of equity for taking such bill *pro confesso*, such bill in equity, or an examined copy thereof, so taken *pro confesso*, shall be taken and read in any court of law or equity as evidence of the facts and matters and things therein contained, in the same manner as if such facts, matters, and things had been admitted to be true by the answer of the defendant put in to such bill; and such bill so taken *pro confesso* shall be received and taken in evidence of such and the same facts, and on behalf of such and so many persons, as the answer of the defendant to the said bill could and might have been read and received in evidence of, in case such answer had been put in by the defendant thereto, and had admitted the same facts, matters, and circumstances as in such bill stated and set forth; and in like manner every other bill of discovery taken *pro confesso*, under any of the provisions of this act, shall or may be taken and read as evidence of the facts and matters and things therein contained, to the extent aforesaid.

XV. And for remedying the practice of courts of equity in regard to process of contempt and the taking of bills *pro confesso*, be it further enacted, That the rules and regulations herein-after provided and contained shall be adopted by the high court of chancery, and shall from henceforth become orders and rules of the said court of chancery, and be observed and enforced in and by the said court; (that is to say,)

1. That when a writ of attachment shall have duly issued against any defendant for contempt in not answering the bill, and such defendant shall not have been taken under such writ, and the sheriff of the county into which such writ shall have issued shall make a return of non est inventus to the same, the court shall, upon motion by or on behalf of the plaintiff, (notice of which shall not be required,) order that the serjeant at arms (1) attending the court do apprehend such defendant and bring him to the bar of the court to answer his contempt, and the same proceedings may thereupon be had as if such order had been made in the manner heretofore in use; provided that before such order shall in any such case be made, the plaintiff applying for the same shall be required to satisfy the court, by the affidavit of the solicitor of the plaintiff, or of his town agent, if the writ of attachment was issued by such town agent, that due diligence (2) was used to ascertain the place where such defendant was at the time of issuing such writ, and in endeavouring to apprehend such defendant under the same, and that the person suing forth such writ verily believed at the time of suing forth the same that such defendant was in the county into which such writ was issued. (3)

(1) On a motion for a serjeant-at-arms under this rule, the affidavit must be made by the clerk who issued the attachment, and the town agent must join in the affidavit, swearing as to his belief; *Handfield v. Woolley*, 4 *Simons*, 122.

(2) The affidavit need not state the party's belief that due diligence has been used in ascertaining the defendant's residence, and in endeavouring to apprehend him, but it must swear to those facts, and in some way or other satisfy the court of their truth; *Wright v. Green*, 2 *Russ. and M.* 93.

(3) An affidavit relating to the defendant's residence, and not to the place where he was at the issuing of the attachment, is insufficient; *Davis v. Hammond*, 5 *Simons*, 9.

And it is not sufficient in the affidavit to state that at the time of issuing the writ of attachment, the defendant's last and only known place of abode was in the county into which the writ issued; it must state the party's belief that at that time the defendant was in the county into which the writ issued; *Handfield v. Wilde*, 2 *Russ. and M.* 91.

2. That if any defendant, being in contempt for not answering the bill, shall have been brought to the bar of the court under process for such contempt, and shall have been committed or remanded back to the prison of the Fleet, the plaintiff may sue forth the writ of habeas corpus in the manner and form heretofore in use in the like cases, provided that there shall be at least twenty-eight days between the day on which such defendant was so committed or remanded back and the return of such writ of habeas corpus; and upon or after the return of such writ of habeas corpus, in case such defendant shall not have put in his answer, the court shall order the bill to be taken *pro confesso* against such defendant, in the same manner as is now usual in the like cases upon the return of a writ of alias pluries habeas corpus, and such decree shall thereupon be made as shall be thought just; but in regard to any defendant in custody before and at the time of the passing of this act, there shall be at least thirty days between the time of passing this act and the return of such last-mentioned writ of habeas corpus; and it shall not be necessary in the case of any defendant now in custody as aforesaid, who shall have been brought to the bar of the court as aforesaid, to sue forth more than one writ of habeas corpus in order to take the bill *pro confesso*.
3. That the party prosecuting any contempt shall be at liberty, without order, to sue forth the several writs in process of contempt, returnable immediately in case the party in contempt resides or is in London or within twenty miles thereof; and that in other cases, the party prosecuting a contempt shall be at liberty, without order, to sue forth such several writs, returnable in vacation, provided that there be fifteen days between the teste and the return of each of such writs.
4. That where a defendant is confined for a misdemeanor, and has been brought before the court upon an habeas corpus, and thereupon has been turned over to the Fleet *pro forma*, but has been carried back to the prison from whence he came, with his cause, another writ of habeas corpus may issue, directed to the gaoler or keeper of the prison to which he has been carried back, and thereupon the defendant shall be brought into court, and remanded to the prison from whence he came, with his cause, without being turned over again to the Fleet prison, and the bill may be taken *pro confesso*, in the same manner in all respects as if the defendant had been all along in the custody of the warden of the Fleet.
5. That if the defendant, under process of contempt for not appearing or not answering, be in actual custody, and shall not have been sooner brought to the bar of the court under process to answer his contempt, the plaintiff, if the contempt be not sooner cleared, shall bring the defendant by an habeas corpus to the bar of the court within thirty days from the time of his being actually in custody, or detained (being already in custody) upon process of contempt, and if the last day of such thirty days shall happen out of term, then within the four first days of the ensuing term; and where the defendant is in custody of the serjeant at arms, or of the messenger, upon an attachment or other process, the plaintiff shall, within ten days after his being taken into such custody, or if the last of such ten days shall happen out of term then within the first four days of the next ensuing term, cause the defendant to be brought to the bar of the court; and in case any such defendant shall not be brought to the bar of the court within the respective times aforesaid, the sheriff, gaoler or keeper, serjeant at arms or messenger, in whose custody he shall be, shall thereupon discharge him out of custody without payment by him of the costs of contempt, which shall be payable by the party on whose behalf the process issued; and this rule shall apply to every defendant in custody before and at the time of passing of this act, who shall not have been

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brought to the bar of the court; but the thirty days allowed in the first above mentioned case, and the ten days allowed in the second above mentioned case, shall be reckoned from the first day of next term.

6. That if a defendant, upon being brought before the court upon an habeas corpus, shall make oath (which shall be administered to him by the registrar, and he shall be examined in open court,) that he is unable by reason of poverty to employ a solicitor to put in his answer, the court shall thereupon refer it to a master in rotation to inquire into the truth of that allegation, and to report thereon to the court forthwith, and thereupon the court may make such order as upon other reports of the like nature under the provisions hereinafter contained. (1)
7. That on the thirtieth day of January, the thirtieth day of April, the thirtieth day of July, and the thirtieth day of October, in every year, or if any of those days happen on a Sunday, then on the following day, one of the masters of the court of chancery, to be named by the court, shall visit the Fleet prison, and examine the prisoners confined there for contempt, and shall report their opinion on their respective cases to the court; and thereupon it shall be lawful for the court to order, if it shall see fit, that the costs of the contempt of any such prisoner shall be paid out of the interest and dividends arising from the several government or parliamentary securities standing in the name of the accountant general of the said court of chancery, intituled "Account of Monies placed out for the Benefit and better Security of the Suitors of the High Court of Chancery," and "Account of Securities purchased with Surplus Interest arising from Securities carried to an Account of Monies placed out for the Benefit and better Security of the Suitors of the High Court of Chancery," or out of any cash standing to either of such accounts, or to any other account which is now or hereafter may be standing to the credit of the suitors of the said court of chancery, (after and subject to the payment of all charges which by any act heretofore passed are directed to be paid thereout,) and to assign a solicitor and counsel to such prisoner, for putting in his answer and defending him *in forma pauperis*, and to direct any such prisoner, having previously done such acts as the court shall direct, to be discharged out of custody; provided that if any such defendant become entitled to any funds out of such cause, the same shall be applied, under the direction of said court, in the first instance to the reimbursement of the suitors' fund.
8. That it shall be lawful for the master visiting the Fleet, or to whom the case of a prisoner shall be referred by the court itself, to examine the prisoner, and all other persons whom he may think it proper to examine, upon oath, and to administer an oath or oaths to any

(1) A reference having been made under this rule, neither the defendant nor any other person on her behalf appeared before the master, though she had been personally summoned. The master proceeded *ex parte* with the inquiry, and reported that the defendant did not appear to be able, by reason of her poverty, to employ a solicitor to put in her answer. The court refused to order the bill to be taken *pro confesso*, but referred it back to the master to review his report, and ordered the warden of the Fleet to produce the defendant before the master at such time and place as the master should appoint, and that the inquiry should be proceeded with in defendant's presence; *Atkinson v. Flint*, 5 Simons, 77. A defendant who was in contempt for not answering the bill, on being brought to the bar of the court under this rule, deposed that she was unable, by reason of poverty, to employ a solicitor to put in her answer, upon which the usual reference was made to the master. The defendant refused to make any statement to the master as to the subject of the reference, and the master proceeding *ex parte*, which being certified by him in the usual way, the court ordered proceedings to be taken under the second rule of the act, and she being brought to the bar accordingly, and the record of the bill being read, and she refusing to put in her answer, it was ordered that the bill be taken *pro confesso* against her; *Williams v. Parkinson*, 5 Simons, 74.

such prisoner and other persons accordingly; and to cause any officers, clerks, and ministers of any court of law or equity to bring 1 No. I. and produce upon oath before him any records, orders, books, papers, or other writings belonging to the said courts, or to any of the officers within the same as such officers. W. 4, c. 36.

9. That if it shall appear to the satisfaction of the court, that any such prisoner is an idiot, lunatic, or of unsound mind, although no commission has issued, the court shall appoint a guardian to put in his answer and discharge the defendant, providing for the costs in any of the ways pointed out by this act, as shall seem just; and if the court shall see fit, the defence may be made by such guardian *in forma pauperis*.
10. That where the defendant has been brought to the bar of the court for his contempt in not answering, and refuses or neglects to answer, (not being idiot, lunatic, or of unsound mind,) the court may, upon motion or petition, of which due notice shall be given personally to the defendant, authorize the plaintiff to amend his bill, without such amendment operating as a discharge of the contempt, or rendering it necessary to proceed with the process of contempt *de novo*; but after such amendment the plaintiff may proceed to take the amended bill *pro confesso*, in the same manner as if it had not been amended: Provided nevertheless, that if the defendant shall be desirous to answer such amended bill, the court shall allow him such time as shall seem just for that purpose; but if he shall not within the time allowed by the court put in a sufficient answer to the amended bill, the process for taking the bill *pro confesso* may be resumed and carried on.
11. That in every case where the defendant has been brought to the bar of the court to answer his contempt for not answering, and shall refuse or neglect to answer within the next twenty-one days, the plaintiff shall be at liberty, with the leave of the court, upon ten days' previous notice to the defendant after the expiration of such twenty-one days, unless good cause be shown to the contrary, instead of proceeding to have the bill taken *pro confesso*, to put in such an answer to the bill as herein-after is mentioned, in the name of the defendant, without oath or signature; and thereupon the suit shall proceed in the same manner as if such answer were really the answer of the defendant, with which the plaintiff was satisfied; and the costs of the contempt and of putting in such answer may be provided for in like manner as if the defendant himself had put in such answer; and such answer, besides the formal parts thereof, shall be to the following effect; that the defendant leaves the plaintiff to make such proofs of the several matters in the bill alleged as he shall be able or be advised, and submits his interests to the court.
12. That in any case where, upon the application of the plaintiff, the court shall be satisfied that justice cannot be done to the plaintiff without an answer to the bill or to the interrogatories from the defendant himself, it shall be lawful for the court to order the defendant to remain in custody until answer or further order, but without prejudice to the plaintiff's availing himself of any of the provisions of this act.
13. That where the defendant is in contempt for not appearing or not answering, and in actual custody under process for such contempt, or being already in custody shall be detained by an attachment for such contempt, and shall not, where the contempt is for not appearing, enter an appearance within twenty-one days after he is lodged in gaol or prison, or the attachment is lodged against him, (he being already in prison,) as the case may be, or, where the contempt is for not answering, put in an answer within two calendar months after he is lodged in gaol or prison, or the attachment is lodged against him, he being already in prison, the plaintiff shall (as the case may be), within fourteen days after the period computed from the expi-

ration of such twenty-one days within which he may by the provisions of this act be able to enter such appearance, cause an appearance to be entered for the defendant under the powers of this act, and shall at the expiration of such two calendar months proceed to take the bill *pro confesso*, and shall accordingly obtain an order for taking the same *pro confesso* within six weeks after the period computed from the expiration of such two calendar months within which he may be able to take the same *pro confesso*; or in default of so doing in either of such cases, the defendant shall, upon application to the court, be entitled to be discharged out of custody without paying any of the costs of the contempt, unless the court shall, under the power herein-before contained, see good cause to remand and detain the defendant in custody, and this rule shall apply to every defendant in custody before and at the time of the passing of this act, who shall not have entered his appearance, and for whom an appearance shall not have been entered, or shall not have answered the bill, and the bill shall not have been taken *pro confesso*, but the twenty-one days and two calendar months respectively to be reckoned from the first day of next term, and the other periods to be altered accordingly in computation; but nothing in this act shall prevent any plaintiff from proceeding to take his bill *pro confesso*, according to the practice existing before the passing of this act, where at the time of passing of this act his proceedings shall be so far advanced that the powers of this act would not enable him to accelerate the period for taking his bill *pro confesso*.

14. That where a defendant is in custody for contempt in not answering, and shall be able to put in his answer by borrowing or obtaining a copy of the bill, without taking an office copy of the bill, he shall not be compellable to take any such copy, but the clerk in court may (if he think the defendant is of sufficient ability to pay for an office copy) require him, before the answer is filed, to make an affidavit denying his ability in consequence of poverty to pay for an office copy of the bill.
15. That when any person shall have been directed by any decree or order to execute any deed or other instrument, or make a surrender or transfer, or to levy a fine or suffer a recovery, and shall have refused or neglected to execute, make, or transfer, or levy or suffer the same, and shall have been committed to prison under process for such contempt, or, being confined in prison for any other cause, shall have been charged with or detained under process for such contempt, and shall remain in such prison, the court may, upon motion or petition, and upon affidavit that such person has, after the expiration of two calendar months from the time of his being committed under, or charged with, or detained under such process, again refuse to execute such deed or instrument, or make such surrender or transfer, or levy or suffer such fine or recovery, order or appoint one of the masters in ordinary, or if the act is to be done out of London, then, if necessary, one of the masters extraordinary, to execute such deed or other instrument, or to make such surrender or transfer, for and in the name of such person, and to levy such fine or suffer such recovery in his name, and to do all acts necessary to give validity and operation to such fine and recovery, and to lead or declare the uses thereof; and the execution of the said deed or other instrument, and the surrender or transfer made by the said master, and the fine or recovery levied or suffered by him, shall in all respects have the same force and validity as if the same had been executed or made, levied or suffered, by the party himself; and within ten days after the execution or making of any such deed or other instrument, or surrender or transfer, or levying or suffering such fine or recovery, notice thereof shall be given by the adverse solicitor to the party in whose name the same is executed or made; and such party, as soon as the deed or other

instrument, or surrender, transfer, fine, or recovery shall be executed, made, levied, or suffered, shall be considered as having cleared his contempt, except as far as regards the payment of the costs of the contempt, and shall be entitled to be discharged therefrom under any of the provisions of this act applicable to his case; and the court shall make such order as shall be just, touching the payment of the costs of or attending any such deed, surrender, instrument, transfer, fine, or recovery.

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16. That where a person shall be committed for a contempt in not delivering to any person or persons, or depositing in court or elsewhere, as by any order may be directed, books, papers, or any other articles or things, any sequestrator or sequestrators appointed under any commission of sequestration shall have the same power to seize and take such books, papers, writings, or other articles or things, being in the custody or power of the person against whom the sequestration issues, as they would have over his own property; and thereupon such articles or things so seized and taken shall be dealt with by the court as shall be just; and after such seizure it shall be lawful for the court, upon the application of the prisoner, or of any other person in the cause or matter, or upon any report to be made in pursuance of this act, to make such order for the discharge of the prisoner, upon such terms, and, if it shall see fit, making any costs in the cause, as to the court shall seem proper.
17. That in any other case of a commitment for contempt, not herein specially provided for, the court may upon any such application as last aforesaid, or upon any such report as aforesaid, make such order for the discharge of the prisoner, upon any such terms, and making, if the court shall see fit, any costs in the cause, as to the court shall seem proper.
18. That where any person committed for a contempt shall be entitled to his discharge upon applying to the court, but shall omit to make such application, the court may upon any such report as aforesaid compulsorily discharge such person from the contempt and from custody, and pay the costs of the contempt out of any funds belonging to him over which the court may have power, or make them costs in the cause as against him, or may discharge him from the contempt, but leave him in custody for the costs, which may be cleared, if he be insolvent, under the provisions herein-after contained in that behalf.
19. That where any party obstinately retains possession of lands or other real property after a writ of execution of a decree or an order for delivery of possession has been duly served and demand of possession made, and upon an affidavit of such service of the writ of execution, and of such demand made thereunder, and a refusal to comply therewith on the part of the person against whom the writ issued, the party issuing it shall be at liberty, upon an affidavit of service of the writ of execution and demand of possession and refusal, to obtain the usual order of course for the writ of assistance to issue, and that the intermediate writs of attachment and injunction further commanding the party to deliver possession, or any other writ, shall be unnecessary.
20. That in order to relieve persons in prison from the expence of a master's attendance to take affidavits or answers, the lord high chancellor do, by one or more commission or commissions under the great seal, upon or in respect of which no fee shall be payable, nominate and appoint the warden, keeper, or other chief officer of every prison within the city of London, or the bills of mortality, and their deputies, to be masters extraordinary of the high court of chancery, for the purpose of taking and receiving such affidavits and answers as any person or persons within any such prison shall be willing or desirous to make, and for no other purpose; and the person so taking such affidavit or answer shall in respect thereof

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be entitled to receive a fee of one shilling, and no more; and the court of exchequer shall in like manner appoint such persons as aforesaid a commissioner or commissioners of the said court, for the purposes aforesaid, and no others, and with the right to the like fee, and no more; and in every case of an answer being sworn in prison, a clerk of a master or baron (as the case may require) shall attend to take and carry back to and from the prison the answer, and shall in respect thereof be entitled to a fee of three shillings, and no more.

Discharge may extend to process for contempt in nonpayment of money, and to costs incurred by creditor, but subject to taxation.

XVI. That the discharge of any prisoner adjudicated upon under the authority of an act passed in the seventh year of his present Majesty's reign, intituled *An Act to amend and consolidate the Laws for the Relief of Insolvent Debtors in England*, or any other act which may hereafter be passed for the relief of insolvent debtors, shall and may extend to all process issuing from any court of equity for any contempt of such court for nonpayment of money, or of costs, charges, or expences in any such court; and that in such case, the said discharge shall be deemed to extend to all costs which such prisoner shall be liable to pay in consequence or by reason of such contempt, or on purging the same; and that every discharge, so adjudicated as aforesaid, as to any debt or damages of any creditor of such prisoner, shall be deemed to extend also to all costs incurred by such creditor, before the filing of such prisoner's schedule, in any action or suit brought by such creditor against such prisoner for the purpose, for the recovery of the same; and that all persons as to whose demands for any such costs, money, or expences any such person shall be so adjudged to be discharged, shall be deemed and taken to be creditors of such prisoner in respect thereof, and entitled to the benefits of all the provisions made for creditors by the said act, or any future act; subject nevertheless to such ascertaining of the amount of the said demands as may be had by taxation or otherwise, and to such examination thereof as is in the said last-mentioned act, or as shall be in any future act provided in respect of all claim to a dividend of such insolvent's estate and effects.

When process of contempt is for nonperformance of an act.

XVII. That where the process of contempt is for the nonperformance of an act, for example, the not answering the plaintiff's bill, and the bill in equity to which the insolvent is a party is taken *pro confesso*, and he has not paid the costs of the contempt, or the insolvent has fully answered the plaintiff's bill or interrogatories, or otherwise cleared his contempt, except as far as regards the payment of the costs, or it has become in event unnecessary for him to do the act for the nonperformance of which he was committed or attached, the court of equity in which the suit is depending shall upon the application of the party in contempt, discharge him from the same, except as to the costs thereof, for which he shall remain in custody, and such costs shall be deemed within the provision lastly hereinbefore contained, and he shall be dischargeable therefrom, and from the process of contempt, in like manner as if the process of contempt were for nonpayment of money or costs; provided that this order or regulation shall not weaken any of the other powers by this act given, nor shall anything herein contained lessen the operation of the said act for the relief of insolvent debtors.

Powers given by this act to the court of chancery to extend to the lord keeper.

XVIII. That the powers and authorities given by this act to the court of chancery, or to the lord chancellor of Great Britain, shall and may be exercised as well by such lord chancellor as by (and they are hereby given to) the lord keeper or commissioners of the great seal of Great Britain for the time being, and to the master of the rolls and vice chancellor respectively; but the reports of the warden of the Fleet, and of the masters visiting there, shall be made to the lord chancellor, lord keeper, or lords commissioners only, who alone are to make orders thereupon for discharge or relief of prisoners.

Certain rules to be adopted by the court of chancery as are numbered from five to twenty, both inclusive of exchequer.

XIX. That such of the rules herein-before directed to be adopted by

sive, shall be adopted by the court of exchequer, which court shall, for the purposes of this act, draw upon the suitor's fund of that court.

XX. That the powers and authorities contained in such last-mentioned rules, and given by this act to the lord chancellor, shall and may be exercised in like manner by, and are hereby given to his Majesty's court of exchequer, and may be exercised by the said court, or by the lord chief baron thereof; but such periodical visits only to be made to the Fleet prison, in regard to prisoners for contempt of the said court, as the lord chief baron shall direct, and by such officer or officers of the court as he shall nominate.

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1 W. 4, c. 36.
Powers contained in such last-mentioned rules extended to the court of exchequer.

XXI. That wherever this act, in describing or referring to any person, or any conveyance, transfer, matter, or thing, uses the word importing the singular number or the masculine gender only, the same shall be understood to include and shall be applied to several persons as well as one person, and females as well as males, and bodies corporate as well as individuals, and several conveyances, transfers, matters, or things respectively, as well as one conveyance, transfer, matter, or thing respectively, unless there be something in the subject or context repugnant to such construction.

Rule for the interpretation of this act.

[No. II.] 11 G. IV. & 1 W. IV. c. 60.—An Act for amending the Laws respecting Conveyances and Transfers of Estates and Funds vested in Trustees and Mortgagees; and for enabling Courts of Equity to give effect to their Decrees and Orders in certain cases.

[See this act, *ante*, Part II., Class I., p. 93.]

[No. III.] 2 W. IV. c. 33.—An Act to effectuate the Service of Process issuing from the Courts of Chancery and Exchequer in England and Ireland respectively (1).

[23rd May 1832.]

WHEREAS great inconvenience and delays of justice arise from the defect of jurisdiction in courts of equity to effectuate the service of their process in such parts of the united kingdom of Great Britain and Ireland as are not within the jurisdiction of the said respective courts; for remedy whereof be it enacted, &c., That from and after the passing of this act it shall and may be lawful for the courts of chancery and of exchequer in England respectively, if they shall so think fit, upon special motion of the complainant or complainants in any suit which has been or shall be instituted in such courts respectively, concerning lands or tenements or hereditaments situate or being within that part of the united kingdom called England or Wales, to order and direct that service in any part of the united kingdom of Great Britain and Ireland and in the Isle of Man respectively, of any subpoena or subpoenas, (2) letter missive or letters missive, and of all subsequent process to be had thereon, upon any defendant or defendants in such suit then residing in such part of the said united kingdom or Isle of Man in which he, she, or they shall be so served, shall be deemed good service of or be made upon such defendant or defendants, upon such terms and in such man-

Courts of chancery and exchequer of England, in suits concerning lands, &c. in England empowered to direct process to be served in other parts of the united kingdom.

(1) See 4 & 5 W. 4, c. 82, amending and extending this act, *post*.

The above statute, and the 4 and 5 W. 4, c. 82, extend to Scotland; *Cameron v. Cameron*, 2 *Mylne and K.*, 289.

(2) Where a defendant resident in Scotland has been served with a subpoena under this act, personal notice must be given to him of a motion for any subsequent process; *Hasluck v. Stewart*, 6 *Simons*, 321.

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Courts of chancery and exchequer of Ireland, in suits concerning lands, &c. in Ireland, empowered to direct process to be served in other parts of the united kingdom.

ner and at such time as to such courts respectively shall seem reasonable; and that thereupon it shall and may be lawful for such courts respectively to proceed upon such service so made as aforesaid as fully and as effectually as if the same had been duly made within the jurisdictions of such courts respectively.

II. That it shall and may be lawful for the courts of chancery and of exchequer in Ireland respectively, if they shall so think fit, upon special motion of the complainant or complainants in any suit which has been or shall be instituted in such courts respectively, concerning lands or tenements or hereditaments situate or being within that part of the united kingdom called Ireland, to order and direct that service in any part of the united kingdom of Great Britain and Ireland and in the Isle of Man respectively, of any subpoena or subpoenas, letter missive or letters missive, and of all subsequent process to be had thereupon, upon any defendant or defendants in such suit then residing in such part of the said united kingdom or Isle of Man in which he, she, or they shall be so served, shall be deemed good service of or be made upon such defendant or defendants, upon such terms and in such manner and at such time as to such courts respectively shall seem reasonable; and that thereupon it shall and may be lawful for such courts respectively to proceed upon such service so made as aforesaid as fully and as effectually as if the same had been duly made within the jurisdiction of such courts respectively.

With subpoena served under this act a copy of the prayer of the bill to be served; and no process of contempt to be entered without special order.

III. Provided always, That along with such subpoena or letter missive served under any such order as aforesaid of the said courts of chancery and of exchequer of England and of Ireland respectively, a copy of the prayer of such complainant's bill shall be served upon every such defendant; and provided also, That no process of contempt shall be entered upon any such proceedings as herein-before mentioned, nor any decree made absolute in any of the said courts in England or Ireland respectively, without the special order of such court, upon special motion made for such purpose: Provided also, That nothing in this act shall be held to make it compulsory upon the complainant or complainants in any suit in any of the said respective courts to serve with process or bring before such courts respectively any party or parties, person or persons, further or otherwise than such complainant or complainants are now by law or the practice of such courts respectively required to do.

[No. IV.] 2 W. IV. c. 58.—An Act to extend the Provisions of an Act of the First Year of the Reign of His present Majesty, for altering and amending the Law regarding Commitments by Courts of Equity for Contempts, and the taking Bills *pro confesso*; and to explain certain parts thereof. [23d June 1832.]

1 W. 4, c. 36.

7 G. 4, c. 57.

WHEREAS by an act passed in the first year of the reign of his present Majesty, intituled *An Act for altering and amending the Law regarding Commitments by Courts of Equity for Contempts, and the taking Bills pro Confesso*, it is amongst other things enacted, that the discharge of any prisoner adjudicated upon under the authority of an act passed in the seventh year of his present Majesty's reign, intituled *An Act to amend and consolidate the Laws for the Relief of Insolvent Debtors in England*, or any other act which may hereafter be passed for the relief of insolvent debtors, shall and may extend to all process issuing from any court of equity for any contempt of such court for nonpayment of money, or of costs, charges, or expences in any such court; and that in such case the said discharge shall be deemed to extend to all costs which such prisoner shall be liable to pay in consequence or by reason of such contempt, or on purging the same; and that every discharge so adjudicated as aforesaid, as to any debt or damages of any creditor of

such prisoner, shall be deemed to extend also to all costs incurred by such creditor before the filing of such prisoner's schedule, in any action or suit brought by such creditor against such prisoner for the purpose, for the recovery of the same; and that all persons as to whose demands for any such costs, money, or expences any such person shall be so adjudged to be discharged, shall be deemed and taken to be the creditors of such prisoner in respect thereof, and entitled to the benefits of all the provisions made for creditors by the said act or any future act, subject nevertheless to such ascertaining of the amount of the said demands as may be had by taxation or otherwise, and to such examination thereof as is in the said last-mentioned act or as shall be in any future act provided in respect of all claim to a dividend of such insolvent's estate and effects: And whereas it is expedient to extend the provisions of the said act passed in the first year of the reign of his present Majesty; be it enacted, &c., That in all cases of contempt (1) other than and besides those provided for by the last-mentioned act, where any person or persons are or is or shall at any time hereafter be in prison under or by reason of any commitment or attachment directed by or issued out of the court of chancery or his Majesty's court of exchequer, the court of equity by which such commitment shall have been directed or out of which such attachment shall have issued shall (upon the application of the persons or person against whom such commitment or attachment hath been directed or issued) have the power, if it shall so think fit, to discharge such persons or person from their, his, or her contempt, except as to the costs thereof, for which costs they, he, or she shall remain in custody; and such costs shall be deemed within the herein-before recited provisions of the said last-mentioned act, and they, he, or she shall be discharged therefrom and from the process of contempt in like manner as is in the said last-mentioned act provided for in cases of process of contempt for non-payment of money or costs; provided that this act shall not weaken any of the powers by the said act passed in the first year of his present Majesty given, and that nothing herein contained shall lessen the operations of the said act for the relief of insolvent debtors.

No. IV.
2 W. 4, c. 58.

Courts of chancery and exchequer respectively empowered to discharge persons committed for contempt;

except as to the costs thereof.

[No. V.] 2 & 3 W. IV. c. 111.—An Act to abolish certain Sinecure Offices connected with the Court of Chancery, and to make Provision for the Lord High Chancellor on his Retirement from Office. [15th August, 1832.]

WHEREAS it is expedient that the offices herein-after mentioned should be abolished as soon as provision can be made for the due performance of the duties thereunto belonging: Be it enacted, &c. That the offices of keeper or clerk of his Majesty's hanaper, the patentee of the subpoena office, the registrar of affidavits, the clerk of the crown in chancery, the clerk of the patents, the clerk of the custodies of lunatics and idiots, the prothonotary of the court of chancery, the chaff wax, the sealer, the clerk of the presentations, the clerk of inrollments in bankruptcy, the clerk of dispensations and faculties, and the patentee for the execution of the laws and statutes concerning bankrupts, shall utterly cease and determine from and after the twentieth day of August one thousand eight hundred and thirty-three.

Certain Offices abolished.

II. Provided nevertheless, and it is hereby further enacted by the authority aforesaid, That nothing in this act contained shall be construed to determine any of the aforesaid offices now holden, in possession or till removal of persons appointed before 1st. June.

(1) An order for the discharge of a prisoner from his contempt under this statute may be made on motion, supported by the certificate of the deputy warden of the Fleet; *Hodder v. Harris*, 5 Simons, 44.

No. V.
2 & 3 W. 4,
c. 111.

Annuity of
5,000*l.* to lord
chancellor on
resignation of
office.

reversion, by any person appointed thereto on or before the first day of June last, until the decease or resignation of such person.

III. And whereas by reason of the abolition of the said offices the lord high chancellor or lord keeper of the great seal for the time being will be deprived of the patronage and gift of the said offices, which does of right belong to and has been exercised by him; and it is therefore just and equitable that more ample provision should be made for the lord high chancellor or lord keeper of the great seal on his retirement from office; be it therefore enacted, That it shall be lawful for his Majesty, his heirs and successors, by any letters patent under the great seal of Great Britain, to give and grant, unto any person executing the office of lord high chancellor of Great Britain for the time being, or the office of keeper of the great seal of Great Britain, an annuity or yearly sum of money not exceeding five thousand pounds of lawful money of Great Britain, to commence and take effect immediately from and after the period whenever the person to whom such annuity or yearly sum of money shall be granted shall resign the said office of lord chancellor, or the office of keeper of the great seal of Great Britain, or be removed from the same respectively, and to continue from thenceforth for and during the natural life of the person to whom the same shall be granted as aforesaid; and such annuity or yearly rent or sum shall be issued and payable out of and be charged and chargeable upon the consolidated fund of the united kingdom of Great Britain and Ireland, after paying, or reserving sufficient to pay, all such sum or sums of money as have been directed under any former act or acts to be paid out of the same; and the said annuity or yearly rent or sum shall from time to time be paid and payable quarterly, free and clear of all taxes and deductions whatsoever, at the four usual days of payment in the year, that is to say, the fifth day of January, the fifth day of April, the fifth day of July, and the tenth day of October, in each year, by even and equal portions, the first payment to be made on such of the said days as shall next happen after such resignation as aforesaid of the said office: Provided always, That it shall be lawful for his Majesty, his heirs and successors, in and by the said letters patent, if he or they shall think fit, to limit the duration and payment of any such annuity to be granted to any person executing the said office of lord high chancellor, or the office of keeper of the great seal of Great Britain, or any part of such annuity, to such periods of time during the natural life of such person in which he shall not execute the said office of lord high chancellor, or the keeper of the great seal of Great Britain, or any other office of profit under his Majesty, his heirs or successors, so as such annuity to be granted as aforesaid, together with the salary and profits of such other office, shall together not exceed in the whole the sum of five thousand pounds; any thing contained in any act or acts to the contrary hereof in anywise notwithstanding.

[No. VI.] 2 & 3 W. 4, c. 122.—An Act for making Provision for the Lord High Chancellor of England in lieu of Fees heretofore received by him. [16th August 1832.]

58 G. 3. c 80.

WHEREAS by an act made and passed in the fifty-eighth year of the reign of king George the third, intituled *An Act to provide additional Salaries to the present Clerks in the Report Office of the High Court of Chancery, and to provide additional Clerks for the said Office, and for making further Provision for the Clerks in the said Office*, and of the several acts therein mentioned or referred to, divers sums of money have been, by virtue of several orders of the said court of chancery, from time to time taken out of the common and general cash belonging to the suitors of the high court of chancery which lay dead and unemployed in the bank of England, and have been placed out in the name of the accountant general of the said court on government or parlia-

mentary securities, and such government or parliamentary securities have been in pursuance of the said acts carried to an account intituled "Account of Monies placed out for the benefit and better Security of the Suitors of the High Court of Chancery," and out of the dividends and interest of the securities purchased in pursuance of the said several acts several annual sums and salaries to the master of the report office, and to the registrars and entering clerks, and to their clerks, and several other payments thereby directed to be made and paid, have been from time to time made and paid; and the surplus interest and annual produce arising from the said securities beyond what was sufficient to answer the several payments thereby and by the several other acts therein mentioned or referred to directed to be made and paid, and also the interest produced from the securities purchased with such surplus interest and annual produce, have been from time to time, in pursuance of the said last-mentioned act, laid out in the purchase of government or parliamentary securities in the name of the accountant general of the said court, and placed to the credit of an account intituled "Account of Securities purchased with surplus Interest arising from Securities carried to an Account of Monies placed out for the benefit and better Security of the Suitors of the High Court of Chancery." And whereas by an act passed in the fifty-third year of the reign of his late Majesty king George the third, intituled *An Act to facilitate the Administration of Justice*, it is enacted, That out of the common and general cash belonging to the suitors of the court of chancery, which did then or should thereafter lie dead and unemployed in the bank of England, the said court was empowered from time to time to order any sum not exceeding sixty thousand pounds to be placed out, in one sum or in parcels, in the name of the accountant general of the said court, on government or parliamentary securities, and that such securities should be carried to the said account intituled account of monies placed out for the benefit and better security of the suitors of the high court of chancery, and should be made part of the same account; and out of the interest and dividends of all or any of the securities purchased out of the said common and general cash, in pursuance of the several former acts therein mentioned or referred to, purchased and to be purchased in pursuance of the now-reciting act, there should be paid, by the governor and company of the bank of England, by virtue of any orders to be made by the said court for that purpose, amongst other yearly payments thereby directed, the net yearly sum of five thousand pounds to the vice chancellor of England for the time being; and it was thereby further enacted, That the lord chancellor, lord keeper, or lords commissioners of the great seal for the time being, should, from the time a vice chancellor should be appointed, pursuant to the now-reciting act, out of the fees and emoluments belonging to and received in respect of the custody of the great seal or otherwise, pay or cause to be paid to the governor and company of the bank of England the net yearly sum of two thousand five hundred pounds, by quarterly payments; and that all such sums of money, when so paid, should be carried to the account of the interest and dividends of the several securities standing in the name of the accountant general therein-before mentioned or referred to, and be applied to all the purposes to which such interest and dividends then were or might be applicable: And whereas the yearly sum of five thousand pounds is now paid and payable to the lord chancellor, lord keeper or lords commissioners of the great seal, for the time being, at his Majesty's exchequer, and it is expedient that such yearly payment should from and after the fifth day of January last cease and be no longer payable: And whereas the clerk of the crown, the clerk of the letters patent, the secretary of fines, and the purse bearer to the lord chancellor, lord keeper and lords commissioners of the great seal, for the time being, or their several and respective deputies, clerks, or agents, have from time to time and do now receive various fees and emoluments which are due and of right payable for business done and

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c. 122.

53 G. 3. c. 24.

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transacted by them in or by virtue of their respective offices, to and for the use and on the account of the lord high chancellor, lord keeper and lords commissioners of the great seal of Great Britain, for the time being, which mode of remuneration is very uncertain, as well as derogatory to the dignity of such office, and it is expedient that a more certain and adequate provision should be made for the lord chancellor, lord keeper or lords commissioners, in lieu and stead of such fees, and that the annual payment of two thousand five hundred pounds, so by the last-recited act directed to be made and paid by the lord chancellor, lord keeper or lords commissioners of the great seal, for the time being, in the manner and for the purposes thereby directed and provided, should, from and after the fifth day of January one thousand eight hundred and thirty-two, cease and be no longer payable, and that the annual sum of five thousand pounds thereby directed to be paid to the vice chancellor of England out of the interest and dividends of the several stocks, funds, and securities standing in the name of the accountant general of the court of chancery to the two several accounts first herein-before mentioned, should, from and after the fifth day of April one thousand eight hundred and thirty-two, be no longer paid or payable out of such interest and dividends: And whereas it is expedient that a further sum, out of the common and general cash belonging to the suitors of the said court, now lying dead and unemployed in the bank of England, should be laid out and invested in the public stocks, funds, and securities, and carried to the account herein-after mentioned, the better to answer and satisfy, by and out of the dividends and interest thereof, the several annual payments hereby and by any and every former act and acts of parliament now or hereafter to be subsisting and payable thereout; be it therefore enacted, &c., That out of the common and general cash belonging to the suitors of the court of chancery, which now lies or shall hereafter lie dead and unemployed in the bank of England, a sum not exceeding the sum of one hundred and fifty thousand pounds shall and may, by virtue of any order or orders of the said court to be made for that purpose, from time to time be placed out, in one entire sum or in parcels, in the name of the accountant general of the said court, according to the general rules and orders of the said court, on such government or parliamentary securities as by such order or orders shall be directed; and such securities shall be carried to the said first-mentioned account intitled account of monies placed out for the benefit and better security of the suitors of the high court of chancery, and shall be made and form part of the same account.

150,000*l.* to be carried to the fund for benefit of the suitors of the court of chancery.

Power to change the securities.

II. That it shall and may be lawful for the lord chancellor, by any order or orders of the said court of chancery, to change the security or securities to be purchased pursuant to this act, or any part or parts thereof, for other government or parliamentary securities, and again to change such securities respectively from time to time, and to give all necessary directions for such purposes.

Money placed out to be called in, if required for answering the demands of suitors.

III. Provided always, That if at any time hereafter the whole or any part of the money so to be placed out and invested pursuant to this act shall be wanted to answer any of the demands of the suitors of the said court of chancery, then and in such case the said court may and shall direct the same or any part thereof to be called in, or the securities on which the same shall be placed to be disposed of, in order that the suitors of the said court may at all times be paid their respective demands out of the common and general cash belonging to such suitors.

Repeal of so much of 53 G. 3. c. 24, as relates to payments to be made by the bank and by

IV. That so much of the said act made and passed in the fifty-third year of the reign of his late Majesty king George the third, intituled *An Act for facilitating the Administration of Justice*, as enacts, that out of the interest and dividends of all or any of the securities purchased out of the common and general cash in pursuance of former acts, and to be purchased in pursuance of that act, there shall be paid by the

governor and company of the bank of England the net yearly sum of five thousand pounds to the vice chancellor of England for the time being, and so much of the said act as directs that the lord chancellor, lord keeper, or lords commissioners for the time being should, from the time a vice chancellor should be appointed as therein mentioned, out of the fees and emoluments belonging to and received in respect of the custody of the great seal, or otherwise, pay or cause to be paid to the governor and company of the bank of England the net yearly sum of two thousand five hundred pounds, in manner therein mentioned, shall be and the same is hereby repealed; and all quarterly payments of the said annual sum of two thousand five hundred pounds which are or would have accrued due thereon shall from and after the fifth day of January last cease and be no longer paid or payable.

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c. 122.
the lord chan-
cellor to the
vice chancellor.

V. That out of the interest and dividends that have arisen or may hereafter arise from the government or parliamentary securities now or hereafter to be placed to the said two several above-mentioned accounts, intituled "Account of monies placed out for the benefit and better security of the suitors of the high court of chancery," and "Account of securities purchased with surplus interest arising from securities carried to an account of monies placed out for the benefit and better security of the suitors of the high court of chancery," there shall be paid by the governor and company of the bank of England, without any draft from the accountant general of the said court, (but subject and without prejudice to the payment of all salaries and sums of money by any former act directed or authorized to be paid thereout,) the net yearly sum of ten thousand to the lord chancellor, or lord keeper or lords commissioners of the great seal of Great Britain, for the time being, as and for a yearly salary, to be paid from time to time quarterly, free and clear of and from all taxes, deductions, or abatements whatsoever out of the same or any part thereof, and to commence and be computed from the eleventh day of January, one thousand eight hundred and thirty-two, and to be from thenceforth payable quarterly on the eleventh day of January, the eleventh day of April, the eleventh day of July, and the eleventh day of October in every year, - by equal portions, the first quarterly payment thereof to be paid and payable as due on the eleventh day of April now last past; and that if any lord chancellor, or lord keeper, or lords commissioners of the great seal, for the time being, shall die or resign, the executor or administrator of the lord chancellor, or lord keeper or lords commissioners, so dying, and the lord chancellor, or lord keeper or lords commissioners, so resigning, shall be entitled to receive and shall be paid such proportionable part of the salary aforesaid as shall have accrued during the time that such person or persons shall have executed the office of lord chancellor, or lord keeper or lords commissioners, since the last quarterly payment thereof; and that the succeeding lord chancellor, or lord keeper or lords commissioners, shall be entitled to receive a like portion of the salary as shall be accruing or shall accrue from the day of the death or resignation of the preceding lord chancellor, or lord keeper or lords commissioners.

VI. That it shall and may be lawful to and for the clerk of the crown, the clerk of the letters patent, the secretary of fines, and the purse bearer to the lord chancellor, for the time being, and their successors in the said several offices, and each and every of them, and their several and respective deputies, clerks, or agents, to have, receive, and take all and every the fees and emoluments which have been accustomed to be paid, and which are of right to be paid and payable and received by them respectively by virtue of their said several offices or appointments, or any of them, for the use and on the account of the lord chancellor, lord keeper or lords commissioners of the great seal, for the time being, which shall hereafter accrue due and become payable, or which shall have accrued due and become payable since the eleventh day of January one thousand eight hundred and thirty-two, for the business done by

Officers to ac-
count for fees.

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them respectively in their said offices; and that such fees and emoluments as have accrued and been received between the said eleventh day of January and the eleventh day of July one thousand eight hundred and thirty-two shall be forthwith accounted for and paid by them respectively into the bank of England in the name of the accountant general of the said court, to an account to be intituled "An account of fees formerly payable to the lord chancellor;" and that such fees and emoluments which have or shall accrue due and payable from and after the eleventh day of July one thousand eight hundred and thirty-two shall in like manner be accounted for and paid as aforesaid once in every three months; and that such fees shall on each payment be verified by the oath of the accounting party; and such payment into the bank to the said last-mentioned account shall be certified by the accountant general of the said court to the lord chancellor, or in such other manner as he shall by any order of the said court direct.

Investment of
money paid in
to the account
of f.es.

VII. That it shall and may be lawful for the lord chancellor, by any order or orders of the said court for that purpose, from time to time to order and direct that the money so paid in to the said account of fees formerly payable to the lord chancellor be from time to time invested in the purchase of parliamentary or government securities, to be placed to the account intituled "Account of securities purchased with surplus interest arising from securities carried to an account of monies placed out for the benefit and better security of the suitors of the high court of chancery."

Annuities to be
henceforth pay-
able to certain
officers of chan-
cery in lieu of
fees.

VIII. And whereas certain salaries, perquisites, and allowances have been heretofore payable by his Majesty's letters patent to the lord high chancellor, and charged upon the office of the keeper or clerk of his Majesty's hanaper in chancery, and the said keeper or clerk of the hanaper has been accustomed to collect and receive certain fees for the use of the lord chancellor for the time being, but which salaries, perquisites, allowances, and fees it is desirable should cease to be payable to the said lord chancellor from the fifth day of January last; And whereas by the provisions of a certain act of parliament passed in the second year of the reign of his present Majesty, intituled *An Act to establish a court in Bankruptcy*, it is enacted, that certain compensations shall be made to the clerk of the hanaper and other officers of the lord chancellor and of the high court of chancery, for the loss of fees under the operation of the said act, and that it shall be lawful for the lords commissioners of his Majesty's treasury to ascertain the amount of the lawful fees and emoluments of the said officers, and to award an annuity or annuities of such an amount and for such term as the lords of the treasury shall find to be a fair and reasonable compensation for the loss to be sustained by all or any of the officers aforesaid by the abolition of of the said fees; and that such annuity or annuities shall be paid out of the fund mentioned in the said act, to be entitled "The secretary of bankrupts compensation account:" And whereas the said keeper or clerk of his Majesty's hanaper, the six clerk comptroller of the hanaper, the sealer, the officer called the chaff wax, and the examiner of the letters patent, have sustained a loss by the abolition of the said fees, and such officers have heretofore received and retained their fees out of the public monies heretofore passing through their hands of the said keeper or clerk of the hanaper; be it enacted, that from and out of the public monies passing through the hands of the said keeper or clerk of his Majesty's hanaper, in chancery, and from and out of the same fund as the said allowances to the said lord chancellor have heretofore been paid to the said lord chancellor for the time being, there shall be paid by the said keeper or clerk of his Majesty's hanaper in every year, into the bank of England, to the credit of the accountant general of the high court of chancery, to the account to be entitled "The Secretary of Bankrupts Compensation Account," such a sum of money as shall be equal to the annuities or annuity which the said lords of the treasury shall find to be from time to time payable to the said keeper or clerk of the hanaper, the six clerk comptroller of the hanaper, the sealer, the chaff wax, and the examiner of

2 W. 4. c. 56.

the letters patent, during such time as the said lords of the treasury shall find that such annuities or annuity ought to be paid to the said several officers respectively; provided that such sum so to be paid to the said accountant general for the purposes aforesaid shall be certified annually by the said lords of the treasury, and shall in no one year exceed the amount which in any such year but for this act would have been payable to the lord chancellor for the time being, for the salaries, perquisites, allowances, and fees aforesaid.

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c. 122.

IX. That the said payments to be made by the said keeper or clerk of the hanaper to the said accountant general, for the purposes aforesaid, and all and every annuities and annuity payable out of the said account shall be entitled "The Secretary of Bankrupts Compensation Account," shall respectively commence and become due from the eleventh day of January last, and shall be paid and payable by equal half-yearly payments; and that if any or either of the officers or persons to whom the said annuities or either of them shall be due or payable for the time being shall resign or die, such officer or person so resigning, and the executor or administrator of such officer or person so dying, shall be entitled to receive and shall be paid such proportionable part of their respective annuities as shall have accrued during the time that such person or person shall have executed such respective office since the last half-yearly payment, and that the person or persons succeeding to any such office or offices shall be entitled to receive such proportionate part of their said respective annuities as shall accrue from the death or resignation of the person or persons so dying or resigning

Such annuities to be payable half yearly.

X. That the receipt and receipts of the said accountant general shall be a good and sufficient acquittance and discharge to the keeper or clerk of his Majesty's hanaper in chancery for the time being, for the payment of the sums aforesaid, and shall be taken, acknowledged, and received assuch by the commissioners for auditing public accounts.

Receipts of accountant general to be a sufficient discharge.

XI. That the salaries, perquisites, allowances, and fees heretofore payable as aforesaid by the said keeper or clerk of the hanaper to the lord chancellor shall, with such deductions as have been heretofore made therefrom, cease to be payable to the lord chancellor as from the fifth day of January one thousand eight hundred and thirty-two, and that the same from and after that day shall be paid to or retained by the said keeper or clerk of the hanaper for the time being, and shall be appropriated in the same manner as all public monies received in the said office in discharge of the various claims thereupon, the said keeper or clerk debiting himself in his public accounts with the receipt of the said fees.

Perquisites heretofore received by lord chancellor from clerk of hanaper to cease.

XII. And whereas there has been paid to the lord chancellor, at the exchequer, on account of the salary usually payable out of the civil list revenue, the sum of one thousand one hundred and ninety-nine pounds five shillings and sixpence, being the proportion of the same due from the eleventh day of January to the fifth day of April one thousand eight hundred and thirty-two: And whereas the salary hereby granted is directed to commence and be payable from the eleventh day of January one thousand eight hundred and thirty-two, and it is therefore expedient that the said sum so received as aforesaid should be repaid; be it therefore enacted, That the said sum of one thousand one hundred and ninety-nine pounds five shillings and sixpence shall be repaid by the lord chancellor into the exchequer, and shall be carried to and made part of the consolidated fund of the united kingdom of Great Britain and Ireland.

1,199l. 5s. 6d. paid to the lord chancellor as a portion of his salary, to be repaid, and form part of the consolidated fund.

XIII. And whereas there are charged upon and made payable by the lord chancellor for the time being certain duties of land tax, and otherwise, in respect of his said office, and it is intended that the salary hereby provided for the said lord chancellor shall be free of all charge; be it enacted, That all taxes, rates, and charges heretofore payable by the lord chancellor for the time being in respect of his said office, for land tax, or otherwise howsoever, shall cease to be payable from the fifth day of January now last.

Charges formerly payable for land tax, &c. on the office of lord chancellor to cease from 5th Jan. last.

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3 & 4 W. 4.
c. 82.

Payment of
costs of this act,
and of proceed-
ings under
same.

Powers given
in this act to
lord chancellor
may be used by
his successors.

XIV. That out of the interest arising from monies placed out for the benefit and better security of the suitors of the high court of chancery, and interest arising from securities purchased with surplus interest arising from securities carried to an account of monies placed out for the benefit and better security of the suitors of the high court of chancery, the costs and charges incurred in procuring and passing this act, and of all proceedings had or to be had in pursuance thereof, or under the same, shall be paid by the governor and company of the bank of England, by virtue of an order or orders of the high court of chancery to be made for that purpose, but subject and without prejudice to the payment of all salaries and other sums of money which by the several acts herein-before mentioned or referred to, or any other act heretofore made, are directed and authorized to be paid thereout.

XV. That the powers and authorities given in this act to the lord high chancellor shall and may be exercised in like manner and are hereby given to the lord chancellor, lord keeper or lords commissioners for the custody of the great seal respectively, for the time being.

[No. VII.] 3 & 4 W. 4. c. 84.—An Act to provide for the Performance of the Duties of certain Offices connected with the Court of Chancery which have been abolished (1).

[28th August 1833.]

2 & 3 W. 4.
c. 111.

WHEREAS by an act passed in the second and third years of the reign of his present Majesty, intituled *An Act to abolish certain Sinecure Offices connected with the Court of Chancery, and to make Provision for the Lord High Chancellor on his Retirement from Office*, it is provided that the following, amongst other offices (*videlicet*), the office of keeper or clerk of his Majesty's hanaper, the clerk of the crown in chancery, the clerk of the patents, the clerk of the custodies of lunatics and idiots, the chaff wax, the sealer, the clerk of the presentations, and the clerk of dispensations and faculties, shall utterly cease and determine from and after the twentieth day of August one thousand eight hundred and thirty-three; provided nevertheless, that the said act should not be construed to determine any of the said offices holden in possession or reversion by any person appointed thereto on or before the first day of June then last, until the decease or resignation of such person: And whereas all the persons holding the said offices, except the clerk of the patents, were appointed to such offices prior to the said first day of June one thousand eight hundred and thirty-two: And whereas it is necessary that competent persons shall be appointed for the discharge of all or some of the duties of the said offices when and as such offices shall become vacant; and it is desirable that the persons to be appointed to discharge the duties of such offices shall be paid by fixed salaries for such their trouble: Be it therefore enacted, &c. That the lord chancellor, or the lord keeper or lords commissioners for the custody of the great seal of Great Britain, or other the person or persons for the time being intrusted by virtue of the king's sign manual with the care and commitment of the custody of the persons and estates of persons found idiot, lunatic, or of unsound mind, shall have as heretofore a secretary, called "The Secretary of Lunatics;" and that from and after the death, resignation, or removal of the person now holding the office of clerk of the custodies of idiots and lunatics, all and every the duties of the said office of clerk of the custodies of idiots and lunatics shall be performed by the said secretary of lunatics, in addition to such other duties as such secretary of lunatics shall be required to perform by the person or

After death, &c. of present clerk of custodies of idiots and lunatics, the duties shall be performed by an officer designated "The secretary of lunatics."

(1) See 5 and 6 W. 4, c. 47, *post*.

persons by whom he shall be appointed; and all the acts to be done by the said secretary of lunatics in performance of the said duties of clerk of the custodies of idiots and lunatics shall in all respects have the same force and effect as if the same had been performed by the said clerk of the custodies or his deputy: Provided always, That it shall be lawful for the person or persons intrusted as aforesaid to make such rules and regulations in regard to the duties of such secretary, including such duties as he shall perform by virtue of this act, and to alter or vary the same, as he or they shall think fit.

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c. 84.

Proviso.

II. That the said lord chancellor, lord keeper, or lords commissioners for the time being shall have as heretofore an officer called "The Purse-bearer to the Lord Chancellor," and a certain other secretary, called "The Secretary of Presentations;" and that from and after the time and times when and as the offices before mentioned of chaff wax and sealer, and each of them, shall respectively become vacant by the death, resignation, or removal of the present respective holders thereof, all and every the duties of such several offices shall be performed by the said purse-bearer for the time being; and that when and as the offices of clerk of the presentations and of clerk of dispensations and faculties, and each of them, shall respectively become vacant by the death, resignation, or removal of the present respective holders thereof, all and every the duties of such several offices shall be performed by the secretary of presentations for the time being; and that all acts to be done by the said purse-bearer in performance of the duties of chaff wax and sealer shall in all respects have the same force and effect as if the same had been done by the said officers called chaff wax and sealer; and that all acts to be done by the said secretary of presentations in performance of the said duties of clerk of the presentations and clerk of dispensations and faculties shall in all respects have the same force and effect as if the same had been done by the clerk of the presentations and the clerk of dispensations and faculties.

The duties of chaff wax and sealer, as vacancies occur, shall respectively, be performed by the purse-bearer.

Duties of clerk of presentations and clerk of dispensations and faculties, as vacancies occur shall respectively be performed by secretary of presentations.

III. That it shall and may be lawful for his Majesty, his heirs and successors, from time to time under their royal sign manual to nominate and appoint fit persons to fill the said several other before-mentioned offices of clerk of the crown in chancery and clerk of the patents, as vacancies may from time to time occur therein; and that such persons so to be nominated and appointed shall hold their respective offices during good behaviour, notwithstanding the demises of his Majesty or any of his heirs or successors, any thing in the said recited act to the contrary notwithstanding.

Clerk of the crown in chancery, and clerk of the patents to be appointed by the crown as vacancies occur.

IV. That from and after the said twentieth day of August one thousand eight hundred and thirty-three as to the said office of clerk of the letters patent, and from and after the death, resignation, or removal respectively of the several holders of the said other offices, there shall be paid to the clerk of the crown in chancery the yearly salary of eight hundred pounds; to the clerk of the patents the yearly salary of four hundred pounds; to the secretary of lunatics, for expences attending the office of clerk of the custodies of idiots and lunatics, the yearly sum of two hundred pounds; to the purse-bearer the yearly sum of fifty pounds for the expences of the office of chaff wax, and for the expences of the office of sealer the like yearly sum of fifty pounds; and to the secretary of presentations, for the expences of the office of clerk of the presentations, the yearly sum of fifty pounds, and for the expences of the office of clerk of dispensations and faculties the like yearly sum of fifty pounds.

Apportionment of salaries.

V. That from and after the time when the office of the keeper or clerk of the hanaper shall become vacant by the death, resignation, or removal of the present holder thereof, all and every the duties of the said office of keeper or clerk of the hanaper shall be performed by the clerk of the crown in chancery, to be appointed by virtue of this act; and all acts to be done by the said clerk of the crown in performance of such last-mentioned duties shall in all respects be of the same force and effect

Regulations of office and salary of clerk of the hanaper.

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c. 84.

as if the same had been done by the said keeper or clerk of the hanaper; and that there shall be paid to the said clerk of the crown for the said duties of keeper or clerk of the hanaper the yearly salary of two hundred pounds: Provided always, That if the said office of the now keeper or clerk of the hanaper shall become vacant before any vacancy shall occur in the office of the now clerk of the crown, that then and in such case only the duties of the said office of keeper or clerk of the hanaper shall be performed by the deputy of the now clerk of the crown, until a vacancy shall occur in the office of the said now clerk of the crown, in the same manner as if such deputy were clerk of the crown appointed by virtue of this act, and that there shall be paid to such deputy for the said duties of keeper or clerk of the hanaper the aforesaid yearly salary of two hundred pounds.

Salaries to be
in full satisfac-
tion of duties.

VI. That the said several salaries shall be taken in full satisfaction for the duties of the said offices respectively, and of all expences incident to the performance thereof.

Fees to be ac-
counted for and
paid into his
Majesty's ex-
chequer, and
made part of
consolidated
fund.

VII. That it shall and may be lawful for the several persons who by virtue of this act shall hereafter hold or perform the duties of the said several offices of keeper or clerk of the hanaper, clerk of the crown in chancery, clerk of the patents, clerk of the custodies of lunatics and idiots, chaff wax, sealer, clerk of the presentations, and clerk of dispensations and faculties, to have, receive, and take all and every the fees and emoluments which have been accustomed to be paid and which of right ought to be paid to the said several officers respectively, or to any deputy or clerk of such several officers, in respect of the said several offices, as the same would have been payable if this act and the said recited act had not been passed; and that such fees and emoluments shall be accounted for once in every three months, commencing in the first instance from the date of such appointments respectively, and shall be paid by the said officers respectively into the receipt of his Majesty's exchequer, and be carried to and made part of the consolidated fund of the united kingdom of Great Britain and Ireland; and the account of the party so paying such fees shall be verified by his oath, which oath any one of the masters in ordinary of the high court of chancery is hereby required and authorized to administer.

In what manner
the salaries of
officers are to
be paid.

VIII. That the said several salaries or sums herein-before directed to be paid shall be issued and payable out of and be charged and chargeable upon the consolidated fund of the united kingdom of Great Britain and Ireland, after paying or reserving sufficient to pay all such sum or sums of money as have been directed under any former act or acts to be paid out of the same fund; and the said salaries or sums shall from time to time be paid and payable quarterly, free and clear of and over and above all fees, rates, taxes, and deductions whatsoever, at the four usual days of payment in the year, that is to say, the fifth day of January, the fifth day of April, the fifth day of July, and the tenth day of October in each year, in even and equal portions, the first payment to be made on such of the said days as shall next happen after the appointment or succession to the said offices respectively shall have taken place.

Re-appoint-
ment of clerk
of inrolments in
bankruptcy
agreeably to act
2 & 3 W. 4,
c. 114.

IX. And whereas the office of clerk of inrolments in bankruptcy is by the said recited act also directed to cease as therein specified, but power to re-appoint to the said office is given by the act next herein mentioned; be it enacted, That the said office shall and may continue and be in force, and that fit and proper persons may be from time to time appointed to the same, with all the powers, authorities, and duties, fees, rights, and privileges, given to or imposed upon the said office by an act passed in the second and third years of the reign of his present Majesty, intituled *An Act to amend the Laws relating to Bankrupts*, any thing in the said first-recited act to the contrary thereof notwithstanding.

[No. VIII.] 3 & 4 W. IV. c. 94.—An Act for the Regulation of the Proceedings and Practice of certain Offices of the High Court of Chancery in England.

[28th August 1833.]

WHEREAS by an act passed in the second and third years of the 2 & 3 W. 4, reign of his present Majesty, intituled *An Act to abolish certain c. 111.*

Sinecure Offices connected with the Court of Chancery, and to make Provision for the Lord High Chancellor on his Retirement from Office, it was enacted, that the offices of the patentee of the subpoena office and the registrar of affidavits, amongst others, should cease from and after the twentieth day of August one thousand eight hundred and thirty-three, except as to any person appointed to any such office on or before the first day of June then last: And whereas the patentee of the subpoena office was appointed before that date: And whereas it is necessary that provision should be made for the due performance of the duties to such offices belonging; and it is expedient that other offices connected with the said court should be regulated, and that others should be abolished, and that such of the duties performed in the offices so to be abolished as are necessary to be continued should be transferred to other offices; and that the costs and expences of proceedings in the said court should be diminished, and that increased facilities should be afforded for the dispatch of business therein: Therefore be it enacted, &c., That the office of master of the report office, and the offices of entering clerks or entering registrars of the said court, and of clerk of the exceptions, and agent to the senior deputy registrar of the same court, as the same have been heretofore held, shall be and the same are hereby abolished.

II. And whereas it is expedient that the sub or deputy registrars of the said court should be constituted registrars of the said court, and appointed that the fees and emoluments to be received by the said registrars and by the clerks in the office of the said registrars should be regulated, and that the business of the suitors of the court in the office of the registrars should be facilitated and expedited: therefore be it enacted, That hereafter there shall be six registrars of the said court; and that Francis Benjamin Bedwell, James Christmas Fry, Edward Dodd Colville, and Joseph Collis, Esquires, the present four sub or deputy registrars, and John Francis Le Cointe and Robert Onebye Walker, Esquires, the two present entering clerks, shall be such six registrars; and that on the death, resignation, or removal of any of the six registrars of the said court, other than the junior registrar, the vacancy thereby occasioned shall be filled up by the registrar next in seniority, to whom no sufficient objection to the satisfaction of the lord chancellor shall be made; and that on the death, resignation, promotion, or removal of the junior registrar, the vacancy thereby occasioned shall be filled up by the senior clerk in the said office for the time being, to whom no sufficient objection to the satisfaction of the lord chancellor shall be made; and that each of such persons so appointed to be registrars, and all and every person and persons hereafter to be appointed to be such registrars, shall be and are hereby authorized and empowered and required personally to do and perform all such matters and things necessary and proper in the due execution of their said offices as belong or appertain thereto, and as have been heretofore done and performed by the sub or deputy registrars of the said court, excepting so far as the same are or shall be altered or varied by this act, or by any rules or orders to be made or issued by the lord chancellor for the time being relative thereto.

III. That the registrars shall attend the court of the lord chancellor, Registrars to attend each the court of the master of the rolls, and the court of the vice chancellor, judge of the court as the lord chancellor, with the concurrence of the master of the rolls and the vice chancellor, or one of them, shall from time to time by any general order direct; and that in &c. shall direct;

No. VIII.
3 & 4 W. 4,
c. 94.

In case of illness, they may appoint a deputy.

case of illness it shall be lawful for any of such registrars, from time to time as occasion may require, to appoint a deputy, such deputy and also the occasion for such appointment to be first approved by the judge on whom it shall be the duty of such registrar to attend, upon a petition to be verified by affidavit, for such time and under such general regulations as the lord chancellor, together with the master of the rolls and vice chancellor, or one of them, shall direct; and no such appointment of a deputy shall continue for any longer time than shall be allowed and specified in and by the order which shall be made by the judge to whom such petition shall have been presented; provided that in case any registrar of the said court who shall be prevented by illness from giving his personal attendance shall omit for the space of two days to appoint such deputy, the judge on whom it shall be the duty of such registrar to attend shall, if he shall see fit, himself appoint such deputy, and direct what part of the salary and fees of such registrar shall be received by such deputy, and the same shall be paid over to and received by him accordingly.

Clerks to the registrars appointed.

IV. That there shall be six clerks to the registrars of the said court; and that Henry Edgeworth Bicknell, James Montresor Standen, Henry Hussey, Francis Robert Bedwell, Cecil Munro, and Edward Dodd Colville junior shall be such clerks; and that on the death, resignation, promotion, or removal of any of them the said clerks, other than the junior clerk, the vacancy thereby occasioned shall be filled up by the clerk next in seniority, to whom no sufficient objection to the satisfaction of the lord chancellor shall be made.

Mode of future appointment of sixth clerk.

V. That on all future vacancies of the office of sixth clerk to the said registrars, other than in the cases provided for of the assistant clerks, the lord chancellor for the time being shall appoint some proper person who has been admitted and entered on the roll of solicitors or attorneys of some one of his Majesty's courts in Westminster Hall, or who shall have duly served a term of not less than five years under articles of clerkship to some solicitor or attorney of some one of the said courts, to be such sixth clerk to the said registrars, and that the several clerks to the said registrars so appointed and to be appointed shall and they are hereby required personally to perform all such matters and things as are necessary and proper in the due execution of the business of the said office of the registrars, and as have been hitherto done and performed by the clerks of the sub or deputy registrars of the said court, excepting so far as the same are or shall be varied by this act, or by any rules or orders to be made or issued by the lord chancellor for the time being relative thereto.

Assistant clerks to registrars.

VI. That Robert Walker Fry and Richard Howell Leach shall act as assistant clerks to the before-named registrars, and that the said Robert Walker Fry and Richard Howell Leach, each in his turn, shall succeed to the office of junior clerk of the said registrars as and when vacancies shall occur, unless cause shall be shown to the contrary to the satisfaction of the lord chancellor; but no clerk shall be appointed to supply the place of the said Robert Walker Fry and Richard Howell Leach, or either of them.

Lord chancellor may increase number of clerks in register office to eight.

VII. That if it shall hereafter appear to the lord chancellor that the business of the said registrar's office cannot be discharged with due dispatch without more than six clerks, then and in such case it shall be lawful for the lord chancellor from time to time to appoint one or more additional clerk or clerks, so that the number of clerks in the said office shall in no case exceed the number of eight clerks; and such additional clerk or clerks shall succeed to and fill any vacancy when and as the same may occur by any death, resignation, promotion, or removal of any other clerk, in the same manner as the right of succession is given to the said before-named clerks and assistant clerks.

Master of reports and entries appointed.

VIII. That there shall be an officer to be called "The Master of Reports and Entries," to which office the said several registrars and the six senior clerks to the said registrars shall in the event of a vacancy in the said office, according to their seniority, be entitled to succeed; but

any such registrar or clerk so taking such office shall vacate his office of registrar or clerk, and shall not thereafter be entitled to fill either of such offices, or to succeed any other registrar or clerk; and in the event of the said registrars and senior clerks declining to accept such office upon any vacancy, the same shall be filled by the nomination from time to time of the lord chancellor; and the duties heretofore performed by the master of the report office, by the entering registrars or entering clerks, and by the clerk of the exceptions of the said court, so far as it shall be found necessary or expedient to continue such duties, shall be performed by the said master of reports and entries in such manner and under such rules and regulations as the lord chancellor, together with the master of the rolls and vice chancellor, or one of them, shall, by any general rules or orders to be issued by them, direct or appoint; and the said master of reports and entries shall receive and account for, in manner herein-after mentioned, all the fees heretofore receivable by the said master of the report office, the entering clerks or entering registrars, and the said clerk of the exceptions.

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3 & 4 W. 4,
c. 94.

IX. That there shall be in the office of the said master of reports and entries, and subject to his direction, a clerk, to be called the clerk of office of the reports; two clerks, to be called clerks of entries; and ten clerks of accounts; that John Henry Standen, now acting as agent to the master of the report office, shall be such clerk of reports; that John Reid and Edward Reid, now acting as clerks to the entering registrars, shall be such clerks of entries; and that William Lampert, Jonathan Williams White, Edward Johnson, John Reid, Thomas Augustus Gale, Godfrey Marsden, Henry Frederick White, John Crump Routledge, and Charles Routledge, now acting as clerks of accounts in the said office, shall be continued in the said offices, and that one other such clerk shall be appointed by the lord chancellor; and that on the death, resignation, promotion, or removal of any of the said clerks of accounts in the said office, or their successors, other than the junior clerk, the vacancy thereby occasioned shall be filled up by the clerk next in seniority, against whom no objection to the satisfaction of the lord chancellor shall be made; and that in the event of a vacancy happening by the death, resignation, promotion, or removal of the junior clerk, the lord chancellor shall from time to time appoint some proper person to be such junior clerk; and the said lord chancellor shall also appoint a successor in the event of a vacancy of the clerk of reports and of either clerk of entries.

X. That any person shall be at liberty to take an office copy of so much only of any decree, order, report, or exceptions as he may require; and that, unless the court shall otherwise specially direct, no recitals shall be introduced in any decree or order of the said court, but the pleadings, petition, notice, report, evidence, affidavits, exhibits, or other matters or documents on which such decrees and orders shall be founded shall merely be referred to; and it shall be lawful for the lord chancellor, if he shall think fit, together with the master of the rolls and vice chancellor, or one of them, to make and issue such rules and regulations as to the form of such decrees and orders as he may deem necessary or proper for the proper drawing up of such decrees and orders, and carrying into effect the provisions of this act in regard thereto.

XI. That there shall be an officer, to be called the clerk of the affidavits, who shall do and perform all the duties heretofore done and performed by the registrar of affidavits, and shall receive and account for, in manner herein-after mentioned, all such fees as were heretofore receivable by the said registrar of affidavits; and that there shall be an assistant clerk to the said clerk of the affidavits; and that such clerk of the affidavits and assistant clerk shall be from time to time appointed by the lord chancellor.

XII. That from and after the death, resignation, or removal from his office of the present patentee of the subpoena office, all the duties of such office shall be performed by the said clerk of the affidavits, who shall

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3 & 4 W. 4,
c. 49.

Master to hear
certain interlocutory matters
subject to
appeal;

but not the
court, except
on appeal.

Costs on inter-
locutory mat-
ters.

Masters to be
hereafter ap-
pointed by the
King by letters
patent.

Masters of the
court of chan-
cery to report
yearly to the
lord chan-
cellor;

and annex to
such report a
list of causes
then pending
in his office.

As to the person
to be appointed
chief clerk.

Suitors not
compellable to
take copies.

thereupon receive and account for, in manner herein-after mentioned, all the fees now receivable by the said patentee.

XIII. That the masters in ordinary of the high court of chancery shall hear and determine all applications for time to plead, answer, or demur, and for leave to amend bills, and for enlarging publication, and all such other matters relating to the conduct of suits in the said court as the lord chancellor, with the advice and assistance of the master of the rolls and vice chancellor, or one of them, shall by any general order or orders direct, in such manner and under such rules and regulations as by any general order or orders to be also issued by the lord chancellor, with the advice and assistance aforesaid, shall be directed; and that it shall be lawful for either party to appeal by motion from the order made on such application to the lord chancellor, master of the rolls, or vice chancellor, and that the order made on such appeal shall be final and conclusive (1.)

XIV. That no such application as above mentioned shall in future be heard by any of the judges of the said court of chancery, except on appeal as herein-before provided.

XV. That it shall be lawful for the said masters, on all applications made to them by virtue of this act, to direct that the costs of all or any of the parties shall be costs in the cause or matter, or to award such liquidated sum by way of costs to any of the parties as they shall think reasonable; and the costs so awarded shall be recoverable in like manner as costs directed to be paid by an order of the court of chancery.

XVI. That the appointment of all masters in ordinary of the high court of chancery, other than the accountant general of the said court, shall be vested in his Majesty, his heirs and successors, and that such master shall hereafter be appointed by letters patent under the great seal of Great Britain, and shall take the usual oaths before the lord chancellor, in like manner as such oaths have been heretofore administered.

XVII. That each of the said masters in ordinary of the high court of chancery shall within the first four days of Michaelmas term in each and every year present or cause to be presented to the lord chancellor a report in writing under the hand of such master, stating the days on which he shall have attended at his office for and during twelve months preceding such return in the performance of his duty, specifying the number of hours occupied in each of such day's attendance as aforesaid; and further, that each such master shall annex to such his report a list or schedule, to be signed by him in like manner, of the several causes, petitions, or matters of every description then pending in his office, showing the then state and stage of the same respectively, designating each cause, petition, or matter by the name or names of the party or parties thereto, or some of them, with the name or names of each solicitor engaged therein; and thereupon it shall be lawful for the said lord chancellor to make and issue such order for filing or depositing and otherwise giving publicity and access to such list or schedule as he in his discretion shall think fit.

XVIII. That no person shall be appointed to be chief clerk of any master in ordinary of the said court unless he shall have been admitted on the roll of solicitors or attornies in one of the courts of Westminster Hall for not less than five years, or shall have been a junior clerk in the office of one of the said masters for a term of ten years.

XIX. That no person shall be compelled or required to take or pay for any copy of any paper or document being in the office of any master in ordinary; and that every person shall be at liberty to take a copy of such part only as he may require of any paper or document being in the

(1) The jurisdiction of the court to amend, as of course, is not excluded by this and the following section of the act, and the new orders founded thereon; *Cullingworth v. Grunby*, 2 *Mylne and Keen*, 359.

office of any such master, and of any interrogatories and depositions being in the office of either of the examiners of the said court: Provided always, That in the taxation of costs as between party and party, or as between solicitor and client, no person be allowed the costs of the copy of any paper or document, or of any part of any paper or document, originating in the master's office, or brought in before a master, unless such copy shall have been either made in the master's office, or transcribed from a copy made therein, and taken by the party claiming to be allowed the costs of such second or other copy, or unless such copy shall have been made for the use of any master, or of the court, or by the desire or for the use of the client or clients of the solicitor claiming to be paid for such copy.

XX. That each and every of the masters in ordinary, registrars, and clerks of the said registrars, master of reports and entries, clerk of affidavits, and examiners of the said court, shall hold their said offices during their good behaviour, and so long as they shall personally give their attendance upon their respective duties, and shall conduct themselves honestly and faithfully in the due execution of the duties of their said offices respectively.

XXI. That the several offices of the high court of chancery shall be and continue open for the dispatch of business during such hours in the day, and that the officers and clerks belonging thereto respectively shall attend in such offices in the discharge of their several duties during such times and for such number of hours in each day, as the lord chancellor, together with the master of the rolls and vice chancellor, or one of them, shall by any order or orders to be issued by them from time to time direct; and that the officers and clerks in the said respective offices shall give their personal attendance in their respective offices during the times they shall so as aforesaid be directed to attend, unless otherwise engaged in the business of their respective offices, or prevented by sickness or other unavoidable cause.

XXII. That it shall and may be lawful for the lord chancellor, with the advice of the master of the rolls and vice chancellor, or one of them, and they are hereby required, forthwith to make and issue such general orders as they shall think fit for carrying the provisions of this act into execution, and such other rules and orders, not being inconsistent with the enactments and provisions of this act, as they shall think fit and proper, for simplifying, establishing, and settling the course of practice of the said court and of its several offices. (1)

XXIII. That the lord chancellor, with the like advice of the master of the rolls and vice chancellor, or one of them, shall be and is hereby authorized and empowered, by the like general orders to be made and issued by them as aforesaid, from time to time to annul, alter, or vary any orders which may have been so as aforesaid made and issued, and to issue new rules and orders for the purposes herein-before mentioned, or any of them.

XXIV. That it shall be lawful for the master of the rolls for the time being, and he is hereby required, to hear and determine all such motions arising in causes depending in the high court of chancery as shall be duly made before him according to the usage and practice of making motions in causes before the lord chancellor, and to hear and determine all such pleas and demurrers filed in causes depending in the high court of chancery as shall be duly set down for hearing before him; and that all orders made by the said master of the rolls for the time being upon the hearing of such motions, pleas, and demurrers respectively shall be deemed and taken to be respectively valid orders of the high court of chancery; subject nevertheless in every case to be discharged, reversed, or altered by the lord chancellor for the time being.

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3 & 4 W. 4,
c. 94.

Officers and clerks to hold their offices during good behaviour.

Hours of business in the several offices.

Lord chancellor empowered to make rules for simplifying and settling the practice of the court;

and to annul or alter the same.

Master of the rolls to determine motions arising in the high court of chancery.

(1) A variety of rules regulating the practice of the courts of equity have been issued under the authority of this clause.

No. VIII.
3 & 4 W. 4,
c. 94.

Exception as to

Solicitors appointed to any office under this act to be struck off the rolls.

Examiners authorized to administer oaths to witnesses.

Vacancies in six clerks' office not to be filled up until the number is reduced to two.

Restraint on sworn clerk.

As to the powers given to the lord chancellor.

New mode of issuing subpoenas.

XXV. Provided also, That nothing herein contained shall be construed to require the present master of the rolls to hear and determine any such motions, pleas, or demurrers, unless he shall think fit to give directions for that purpose.

present master of rolls.

XXVI. That every solicitor or attorney who shall be appointed to and shall accept any office or employment under or by virtue of this act shall forthwith be struck off the roll of solicitors of the high court of chancery, and off the roll of attorneys of any of his Majesty's courts of record at Westminster, on which his name may be.

XXVII. That the examiners of the high court of chancery shall be and they are hereby authorized and empowered to administer the usual and accustomed oaths, and to take the usual affirmations of the witnesses examined before them; and that all depositions of witnesses examined in the high court of chancery shall hereafter be taken in the first person; and the said examiners shall receive and account for, in manner hereinafter mentioned, all the fees heretofore receivable by the said examiners or their clerks.

XXVIII. That as vacancies may occur in the office of six clerks of the said court, such vacancies shall not be filled up until the number of such six clerks be reduced to two clerks, and that such two clerks shall have all the rights and privileges and perform all the duties heretofore had and performed by the six clerks, whether as clerks of the enrolment of the high court of chancery, or otherwise, until it shall be otherwise provided by act of parliament; and when and as often as any one or more of the six clerks, other than the two clerks to be continued as aforesaid, shall die, or resign, or be removed from his office all fees and emoluments which would have accrued to any such six clerk or six clerks if he or they had lived and continued in office, shall be received by and be accounted for on oath (such oath to be administered by one of the masters of the said court), and be paid by the surviving or continuing six clerks into the bank of England, to the credit of the accountant general of the said court, to be by him placed to the credit of an account to be intituled "The Suitors' Fee Fund Account."

XXIX. That no clerk shall be articulated to any sworn clerk or writing clerk of the said court at any time between the passing of this act and the first day of May next.

XXX. That the powers and authorities given by this act to the lord high chancellor shall and may be exercised in like manner and are hereby given to the lord keeper or lords commissioners for the custody of the great seal respectively for the time being.

XXXI. That the patentee of the subpoena office shall forthwith provide a seal, in such form and with such impression as the lord chancellor shall approve of; and that the lord chancellor for the time being may cause such seal or impression to be varied from time to time as to him may seem fit; and that any person desirous of issuing a writ of subpoena, such as has been heretofore issued by such patentee, may prepare such subpoena, and present the same for sealing, and the same shall henceforth be an open writ, and either in the present form or in any other form which the lord chancellor may from time to time direct; and such writ shall, upon presentment thereof for that purpose, be forthwith sealed with such seal, and shall have the same force and validity as a writ of subpoena now has when sealed with the great seal; and there shall hereafter be paid for each such subpoena, on the same being sealed, the sum of five shillings and sixpence, which sum shall be received by the patentee of the subpoena office until his death, or resignation of or removal from his said office, who, out of each sum so to be received by him, shall pay to the receiver of the sixpenny writ duty the sum of sixpence, to the chaff wax and his deputy, for their equal use, the sum of two-pence, and to the sealer attached to the great seal and his deputy, for their equal use, the like sum of two-pence; and from and after the death, resignation, or removal of the present patentee,

such writs of subpoena shall be sealed by the said clerk of the affidavits, who shall thenceforth receive the same sum of five shillings and sixpence, and after discharging the like fees and outgoings to the several before-mentioned officers shall pay what may remain to the said accountant general, to be by him placed to the credit of the said account entitled "The Suitors Fee Fund Account."

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3 & 4 W. 4,
c. 94.

XXXII. That the several annual sums or yearly payments provided for and directed to be paid to the sub or deputy registrars of the high court of chancery for the time being, and their clerks in the same office, and to the master of the report office and his clerks, by an act or acts of parliament whatsoever now in force, shall cease. Annual sums paid to deputy registrars, &c. to cease.

XXXIII. That there shall be paid by the said accountant-general, out of the fund to be placed to his account, to be entitled "The Suitors Fee Fund Account," to the several officers named in the schedule hereunder written, the several salaries or yearly sums set opposite to their respective names or titles in such schedule, and that such salaries or yearly sums shall be payable and paid by equal quarterly payments on the twenty-fifth day of February, the twenty-fifth day of May, the twenty-fifth day of August, and the twenty-fifth day of November in every year, the first of such quarterly payments to be made on the twenty-fifth day of February one thousand eight hundred and thirty-four. Salaries to officers.

XXXIV. That in the event of the death, resignation, or removal of the masters in ordinary or their clerks, or of any officer to be appointed or continued by virtue of this act, in the interval between any of the quarterly days of payment on which his salary is hereby made payable, the officer so resigning or being removed, or the executors or administrators of the officer so dying, shall be entitled to receive and shall be paid such proportionate part of his said salary as shall have accrued from the next preceding quarterly day of payment to the day of such death, resignation, or removal; and the person next in succession to any such officer shall be entitled to receive and be paid such portion of the said salary as shall have accrued and may accrue from the day of such death, resignation, or removal as aforesaid to the next succeeding quarterly day of payment. Proportion of salaries to representatives of deceased officers.

XXXV. That there shall be paid by the said accountant general, out of the like fund, the sum of one hundred and twenty-five pounds to the said clerk of the affidavits, and the sum of thirty-seven pounds ten shillings to the said assistant clerk of the affidavits, for and in lieu of their respective salaries, from the passing of this act to the twenty-fifth day of November following. First payment to clerk of affidavits.

XXXVI. That if at the end of any year there shall be a surplus standing to the credit of the said account entitled "The Suitors Fee Fund Account," after payment of the several salaries or sums of money hereby charged thereon, it shall be lawful for the lord chancellor, by any order or orders of the said court of chancery, to direct that any surplus which may remain on the said account to be entitled "The Suitors Fee Fund Account," after paying the several salaries or sums of money hereby charged thereon, or such part thereof as to the said lord chancellor shall seem fit, shall be invested in the purchase of parliamentary or government securities, in the name of the said accountant general, to be placed to an account to be entitled "Account of Monies placed out to provide for the Officers of the High Court of Chancery;" and it shall be lawful for the lord chancellor in like manner to direct the investment of the dividends or interest to accrue from time to time on such last-mentioned securities, or so much of such dividends and interest as he shall think fit, in the purchase of parliamentary or government securities, in the name of the said accountant general, to be by him placed to the credit of the said last-mentioned account; and in the event of there being a deficiency in the said account to be entitled "The Suitors Fee Fund Account," at any of the times hereby appointed for payment of the salaries herein-before mentioned, to raise and pay the several sums then due, it shall be lawful for the lord chancellor to direct Provision in case of surplus or deficiency in fee fund.

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c. 94.

the said accountant general from time to time to make good such deficiency, as often as the same shall arise, by carrying over and placing to the said account to be entitled "The Suitors Fee Fund Account" a sum sufficient for that purpose out of the interest and dividends to arise from the government or parliamentary securities standing to the said account to be entitled "Account of Monies placed out to provide for the Officers of the High Court of Chancery," or by a sale of so much of the said securities as may be necessary for that purpose; and in case such last-mentioned securities, and the interest and dividends thereof, shall be at any time insufficient to meet any such deficiency, it shall be lawful for the lord chancellor to direct the said accountant general from time to time to make good such last-mentioned deficiency, as often as the same shall arise, by carrying over and placing to the said account to be entitled "The Suitors Fee Fund Account" a sum sufficient for that purpose out of the interest and dividends that have arisen or may hereafter arise from the government or parliamentary securities now or hereafter to be placed to two several accounts in the bank of England, standing in the name of the said accountant general, and intituled "Account of Monies placed out for the Benefit and better Security of the Suitors of the High Court of Chancery," and "Account of Securities purchased with surplus Interest arising from Securities carried to an Account of Monies placed out for the Benefit and better Security of the Suitors of the High Court of Chancery."

Table of fees to
be settled and
paid to fee fund
account.

XXXVII. That it shall be lawful for the lord chancellor, with the advice and concurrence of the master of the rolls and the vice chancellor, or one of them, to fix and settle a table of fees to be received and taken by the clerks to the masters in ordinary, and by the said registrars and their clerks; and that the said clerks to the said masters in ordinary, and the said registrars and their clerks, shall and may thereafter take and receive such fees; and that the said clerks to the said masters in ordinary, and the said registrars and their clerks, and also the said master of reports and entries, the clerk of the affidavits, and the examiners, shall pay into the bank of England, to the credit of the said accountant general, once in every month, all fees or sums of money to be received by them respectively by virtue of this act (the amount so received and paid by them to be verified by affidavit to be sworn before one of the masters of the said court); and that the several sums, when so paid in, shall be from time to time placed to the said account to be intituled "The Suitors Fee Fund Account": Provided always nevertheless, that the master of reports and entries, before making such payment as aforesaid, shall be allowed to deduct from the sum so received by him, and to pay to the said clerk of reports, one penny halfpenny per folio of ninety words for every office copy made and delivered by him, and to the clerks of entries the like sum of one penny halfpenny per folio of ninety words for all entries made by them: and that the clerk of the affidavits shall in like manner be allowed to deduct from the sum so received by him, and to pay to his assistant clerk, the sum of one penny halfpenny per folio of ninety words for every office copy of affidavit made and delivered by him; and that the examiners shall in like manner be allowed to deduct from the sums to be received by them in manner aforesaid, and to pay to their clerks, the sum of one penny halfpenny per folio of ninety words for every office copy to be made and delivered by them.

Allowances for
copying.

Table of fees to
be laid before
parliament.

XXXVIII. That the table of fees so to be taken and received shall, within fourteen days next after the same shall be settled in manner aforesaid, be laid on the table of the house of commons, if parliament shall be then assembled, or if parliament shall not be then assembled, then within fourteen days after the meeting of parliament then next following.

XXXIX. And whereas by an act passed in the fifth year of the reign of his late Majesty king George the third the annual sum of two hundred pounds was directed to be paid to each of the eleven masters in

ordinary of the high court of chancery, out of the interest and dividends of the government or parliamentary securities, herein-before and next herein-after mentioned; and by an act passed in the forty-sixth year of the reign of his late Majesty king George the third the annual sum of four hundred pounds was directed to be paid to each of the said eleven masters in ordinary, out of the interest and dividends of the same securities, in addition to their respective salaries; be it further enacted, That so much of the said act as directs the payment of the said several sums of two hundred pounds and four hundred pounds to each and every of the said masters, other than the accountant general, shall be and the same is hereby repealed; and that out of the interest and dividends of the said government or parliamentary securities carried or to be carried to the said account entitled "Account of Monies placed out for the Benefit and better Security of the Suitors of the High Court of Chancery," and out of the interest and dividends of the government or parliamentary securities carried to the said account entitled "Account of Securities purchased with surplus Interest arising from Securities carried to an Account of Monies placed out for the Benefit and better Security of the Suitors of the High Court of Chancery," in the said recited acts passed in the fifth and forty-sixth years of the reign of his late Majesty king George the third respectively mentioned, and out of the interest and dividends of any government or parliamentary securities hereafter to be purchased and placed to the last-mentioned accounts, there shall be paid (but subject to and without prejudice to the payment of all salaries and other sums of money by any act or acts of parliament not hereby repealed directed or authorized to be paid thereout) by the governor and company of the bank of England, by virtue of an order or orders of the high court of chancery to be made for that purpose, without any draft from the accountant general of the said court, the annual sum of two thousand five hundred pounds to each and every of the masters in ordinary of the said court for the time being, exclusive of the accountant general, free from all parliamentary taxes and deductions whatsoever, which said annual sum of two thousand five hundred pounds to each of the said masters, exclusive as aforesaid, shall commence from the twenty-fifth day of November next, and shall be paid by equal quarterly payments on the twenty-fifth day of February, the twenty-fifth day of May, the twenty-fifth day of August, and the twenty-fifth day of November in every year.

No. VIII
3 & 4 W. 4,
c. 94.

2,500*l.* to be
paid annually
to the masters
in ordinary, ex-
clusive of the
accountant
general.

XL. That it shall be lawful for the copying or writing clerks of the said masters to receive and take the sum of one penny halfpenny per folio of ninety words, and no more, for every copy of every document or writing, or a part of any document or writing, made in the masters' offices, from the party requiring the same, and also for the transcript of every report; and that such sum of one penny halfpenny per folio shall be retained by the said writing or copying clerks to be employed by the said masters in their respective offices, and that no part thereof shall be received or retained by or applied for the use or benefit of any other person or persons on any pretence whatsoever.

1*½*d. per folio to
be paid to copy-
ing clerks in the
masters' offices.

XLI. That if any master in ordinary of the high court of chancery, or any person holding any office, situation, or employment in any office of the said court, or under any of the judges or officers thereof, shall, for any thing done or pretended to be done relating to his office, situation, or employment, or under colour of doing any thing relating to his office situation, or employment, wilfully take, demand, receive, or accept, or appoint or allow any person whatsoever to take for him or on his account, or for or on account of any person by him named, or in trust for him or for any other person by him named, any fee, gift, gratuity, or emolument, or any thing of value, other than what is allowed or directed to be taken by him as aforesaid, the person so offending, when duly convicted, shall forfeit and pay the sum of five hundred pounds, and shall be removed from any office, situation, or employment he may hold in the said court, and shall be rendered and is hereby rendered incap-

Officers and
clerks not to
take gratuities.

Penalty on con-
viction of
offender.

No. VIII.
3 & 4 W. 4,
c. 94.

How offenders
may be prosecuted.

Lord chancellor
may order
expences of the
offices to be
paid.

ble for ever thereafter of holding any office, situation, or employment in the said court, or otherwise serving his Majesty, his heirs or successors.

XLII. That any such offender may be prosecuted either by information at the suit of his Majesty's attorney general, or by criminal information before his Majesty's court of king bench, or by indictment.

XLIII. That it shall be lawful for the lord chancellor, by virtue of any order or orders of the said court to be made for that purpose, to order and direct an annual account to be taken, and to order payment, out of the funds herein-after mentioned, of all such sums as shall appear to the lord chancellor to be reasonable and proper to be paid to the masters, the registrars, the master of reports and entries, the clerk of affidavits, and the examiners, and the clerks in the same several offices respectively in order to reimburse them for any expences reasonably and necessarily expended by them from and after the day on which this act shall come into operation until the fifth day of April then next following, and after that time between the sixth day of April in every year and the fifth day of April in the following year, both inclusive, for the care or cleaning of the rooms or buildings in which any such offices may be held, or for any rent payable for or in respect of any such buildings or rooms, in paying for books or stationery provided or supplied for carrying on the business of the said respective offices, other than the paper used for making copies for parties in the said several offices of the masters, the master of reports and entries, the clerk of affidavits, and the examiners, or in providing coals and candles and other necessary articles for the said offices and each of them, or in payment of taxes, rates, and other assessments charged upon or payable for or in respect of the said offices and buildings, and each or either or any of them, or to which the said several officers or any of them may be liable in respect thereof; and that the expences aforesaid of or relating to the said several offices and buildings shall be paid out of the interest and dividends of the government or parliamentary securities carried to the said two several accounts entitled "Account of Monies placed out for the benefit and better Security of the Suitors of the high Court of Chancery," and "Account of Securities purchased with surplus Interest arising from Securities carried to an account of Monies placed out for the benefit and better Security of the Suitors of the High Court of Chancery," or either of them.

Lord chancellor,
&c. may
diminish fees.

XLIV. That it shall and may be lawful for the lord chancellor, with the advice and concurrence of the master of the rolls and the vice chancellor, or one of them, from time to time, by any general order or orders, to direct that the several fees hereby authorized to be received and taken, or any of them, may be varied and increased or reduced in amount, or wholly omitted to be received, as to them shall seem fit, and as circumstances may require, provided that sufficient of such fees shall be left to meet the demands hereby directed to be paid thereout.

Power to invest
surplus interest
of suitors fund.

XLV. That the surplus interest and annual produce which hath arisen and shall arise from the monies placed out on the several accounts entitled "Account of Monies placed out for the Benefit and better Security of the suitors of the High Court of Chancery," and "Account of Securities purchased with surplus Interest arising from Securities carried to an Account of Monies placed out for the Benefit and better Security of the Suitors of the High Court of Chancery," beyond what shall be sufficient to answer the purposes of this and the several other acts relating to such securities, and also the interest produced from the securities purchased with such surplus interest and annual produce, shall from time to time be placed out in the purchase of government or parliamentary securities, in the name of the accountant-general of the said court, and placed to the credit of the said account entitled "Account of Securities purchased with surplus interest arising from Securities carried to an Account of Monies placed out for the Benefit and better Security of the Suitors of the High Court of Chancery."

XLVI. That if at any time hereafter the whole or any part of the monies placed out to the said two several accounts intituled "Account of Monies placed out for the Benefit and better Security of the Suitors of the High Court of Chancery," and "Account of Securities purchased with surplus interest arising from Securities carried to an Account of Monies placed out for the Benefit and better Security of the Suitors of the High Court of Chancery," or to be placed out in pursuance of this act, shall be wanted to answer any of the demands of the suitors of the said court of chancery, then and in such case the said court may and shall direct the whole or any part of such monies to be called in, and the securities in which the same and the surplus interest and dividends herein-before mentioned shall be placed, to be sold and disposed of, in order that the suitors of the said court may at all times be paid their respective demands out of the common and general cash belonging to such suitors.

XLVII. That it shall be lawful for the lord chancellor, by any order or orders of the said court of chancery, to authorize the change of the security or securities, or of any part of the securities, to be purchased pursuant to this act.

XLVIII. And whereas it is alleged that the emoluments of the present masters in ordinary, and of the registrars and the clerks of the said registrars, and of the clerks to the entering registrars, and of the examiners and their clerks, will be greatly diminished by the operation of this act, for which they claim to have compensation made: And whereas the office of master of the report office, now held by Thomas Alexander Raynsford esquire, and the office of clerk of exceptions, and of agent to the senior deputy registrar, now held by Mr. James Bird, will be abolished by this act: And whereas the office of registrar of affidavits will have ceased and determined from and after the twentieth day of August one thousand eight hundred and thirty-three, and a clerk of affidavits, with greatly reduced emoluments, is to be substituted for the said registrar by virtue of this act; and instead of two assistant clerks in the said office there is hereafter to be only one such clerk: And whereas William Nicholson, the present senior clerk in the said office, has been employed as a clerk therein for forty-two years past, and by infirm health is become incapable of effectually discharging the duties of the office of clerk of affidavits; and the said Thomas Alexander Raynsford, James Bird, and William Nicholson claim compensation in respect of their said several offices so held by them; be it therefore enacted, That it shall be lawful for the lords commissioners of his Majesty's treasury for the time being, or any three or more of them, and they are hereby required, within the space of six calendar months next after the passing of this act, by examination on oath or otherwise, which oath they and each of them are and is hereby authorized to administer, to inquire whether any, and if any what, compensation ought to be made to all or any of the said officers and persons herein-before mentioned as claiming such compensation, the said commissioners having regard to the conditions on which the appointment of any such officer was made, or to any notice which at the time of such appointment may have been given to such officer, that such office was to be holden subject to any provision by parliament for the abolition or regulation thereof, but with full power for the said commissioners to investigate and determine whether, from the nature of the said offices or the mode of accession thereto, any such conditions or notice could have been properly made or given, and also having regard to the holding of any office, place, or situation by such officer under this act; and that in all cases in which it shall appear to the said lords commissioners that compensation ought to be granted, it shall be lawful for the said lords commissioners, or any three or more of them, by warrant under their hands, to order and direct that such annual or other compensation shall be made to the persons so claiming such compensation as aforesaid, or any of them, as to the said lords commissioners in their discretion shall seem just and reasonable; and all such compensations,

No. VIII.
3 & 4 W. 4,
c. 94.

Money placed out, if required to answer demands of suitors, to be called in.

Power to
change securities.

Lords of the
treasury may
grant compensation to persons herein mentioned under certain conditions.

No. VIII.
3 & 4 W. 4,
c. 94.

whether annual or in gross, shall be issued and paid and payable by the said accountant-general, by virtue of an order or orders for that purpose to be made by the said court of chancery, out of the funds hereby directed to be carried to the said account entitled "The Suitors Fee Fund Account : " Provided always, That an account of all such compensations shall, within fourteen days next after the same shall be so granted, be laid upon the table of the house of commons, if parliament shall be then assembled, or if parliament shall not be then assembled, then within fourteen days after the meeting of parliament then next following.

Treasury may
grant compen-
sation to secre-
tary of the mas-
ter of the rolls.

XLIX. And whereas it may be expedient for the further diminishing of the expence of suits in the said court of chancery that other alterations may be made in the practice of the said court by abolishing orders of course and otherwise, and such alterations may materially diminish the present emoluments of the secretary of the master of the rolls ; be it enacted, That it shall be lawful for the lords commissioners of his Majesty's treasury to inquire whether any, and if any what, compensation ought to be made to the said secretary for any such loss of emoluments, regard being had to the nature of his office, and to the circumstances under which such emoluments are payable and have lately increased ; and if it shall appear to the said lords commissioners that compensation ought to be granted, it shall be lawful for the said lords commissioners, or any three or more of them, by warrant under their hands, to order and direct that such annual or other compensation shall be made to the present secretary, or to the secretary of the master of the rolls for the time being, as to the said lords commissioners in their discretion shall seem just and reasonable ; and such compensation, whether annual or in gross, shall be issued and paid in like manner and out of the like fund as is herein-before provided with reference to compensations to be granted to other officers of the said court ; and an account of any such grant of compensation shall be laid before parliament in the same manner as is provided as to other compensations.

Masters in
chancery ap-
pointed after
the passing of
this act not to be
entitled to an-
nuity for length
of service.

L. And whereas by an act passed in the forty-sixth year of the reign of his late Majesty king George the third, intituled *An Act for making Provision for such Masters in Ordinary of the High Court of Chancery as from Age or Infirmary shall be desirous of resigning their offices, with the Approbation of the said Court, and for augmenting the Income of the Masters in Ordinary of the said Court*, it is provided, amongst other things, that it shall be competent to the lord chancellor to order an annuity or clear yearly sum of money, not exceeding one thousand five hundred pounds, to be paid to any of the eleven masters in ordinary of the high court of chancery who shall have been a master in ordinary of the said court for the term of twenty years, or who shall be afflicted with some permanent infirmity disabling him from the due execution of his office, and who shall be desirous of resigning the same : And whereas it is expedient that allowance should not be made to any of such masters hereafter to be appointed in respect of length of service, but only in case of permanent infirmity and disability ; be it therefore enacted, That no master in ordinary of the high court of chancery to be appointed after the passing of this act shall receive or be entitled to receive any annuity or allowance whatsoever in respect only of length of service, any thing in the said last-recited act to the contrary notwithstanding.

Order for pay-
ment of annuity
to master to
contain the
cause of making
same.

LI. That in case any order shall hereafter be made by the lord chancellor for the payment to any such master hereafter to be appointed of any annuity or yearly sum, in regard that such master may have become afflicted with some permanent infirmity disabling him from the due execution of his office, then and in such case the said lord chancellor shall in such order state the cause for the making the same, and shall cause a copy of such order to be laid on the table of the house of commons within fourteen days next after the making the same if parliament shall be then assembled, and if parliament shall not be sitting, then within fourteen days next after the assembling thereof.

Copy of any
order for annuity

LII. That in all cases in which the said lord chancellor shall order to be laid before house of commons.

any annuity to be paid to any officer whatsoever of the court of chancery, by virtue of any authority vested in him for that purpose, the said lord chancellor shall cause a copy of every such order to be laid on the table of the house of commons within the periods herein-before mentioned.

No. VIII
3 & 4 W. 4,
c. 94.

LIII. That this act shall come into operation, as to the office of clerk of the affidavits, and the duties therein and incident thereto, immediately after the passing of this act, and as to all other matters herein contained, on the twenty-sixth day of November one thousand eight hundred and thirty-three. Commence-
ment of act.

The SCHEDULE herein-before referred to.

	Salary.
	£2,000 per Ann.
The First Registrar	1,800 ..
Second Do.	1,800 ..
Third Do.	1,500 ..
Fourth Do.	1,500 ..
Fifth Do.	1,250 ..
Sixth Do.	800 ..
The First Clerk to the Registrars	800 ..
Second	600 ..
Third	600 ..
Fourth	400 ..
Fifth	400 ..
Sixth	300 ..
Seventh	300 ..
Eighth	1,000 ..
Master of Reports and Entries	200 ..
Clerk of Reports	150 ..
First Clerk of Entries	100 ..
Second	500 ..
First Clerk of Accounts	400 ..
Second	350 ..
Third	300 ..
Fourth	250 ..
Fifth	200 ..
Sixth	150 ..
Seventh	150 ..
Eighth	150 ..
Ninth	100 ..
Tenth	500 ..
Clerk of Affidavits	150 ..
Assistant Clerk to Do.	1,000 ..
To the Chief Clerk of each of the Masters in Ordinary, other than the Accountant General	150 ..
To the junior Clerk of each of such Masters	700 ..
To each of the Two Examiners of the Court	150 ..
To the Clerk of each of the Examiners	

[No. IX.] 4 & 5 W. IV. c. 68.—An Act to authorize an advance out of the general Fund of Monies belonging to the Suitors of the Courts of Chancery and Exchequer in Ireland, towards the Purchasing of Ground and Building thereon Offices necessary to the Courts of Justice in Dublin.

[No. X.] 4 & 5 W. IV. c. 78.—An Act for the Amendment of the Proceedings and Practice of the High Court of Chancery in Ireland.

[14th August 1834.]

WHEREAS it is expedient that the laws relating to entering appearances and taking bills *pro confesso* in the high court of chancery in Ireland should be amended, and that the costs and expences of proceedings in the said court should be diminished, and that increased facilities should be afforded for the dispatch of business therein: Be it therefore enacted, &c., That where any defendant to any suit instituted in the said court shall be duly served in Ireland with process of subpoena to appear and answer in such suit, and shall refuse or neglect to appear thereto, an appearance shall and may, after the expiration of eight days, exclusive of Sundays and holidays, from the due service of such subpoena, be entered for such defendant, at the instance of the plaintiff, in such manner and form as the court, by any general order or orders to be made in pursuance of this act, shall direct; and that thereupon such further proceedings may be had in the cause as if the defendant had actually appeared.

If a defendant has been served with process, and neglects to appear after eight days, an appearance may be entered and proceedings had.

Rule books of the court to be open upon all days except Sundays and holidays.

II. And whereas it is expedient, for the further diminishing the expence of suits in the said court, that an alteration should be made in the practice of the said court by abolishing petitions as herein-after provided; be it therefore enacted, That from and after the commencement of this act the rule books of the said court shall be deemed open in the registrar's office of the said court upon all days of the year except Sundays and holidays, and accordingly that all side bar rules and rules of course shall be entered in the said rule books upon all days of the year, except Sundays and holidays, without petition, in like manner as the same are now respectively entered in the said books during the sittings of the court, or in such form and manner as the said court by any general order or orders to be made in pursuance of this act shall direct.

Motion books to be open during the sitting of the court; and orders may be made without petition.

III. That from and after the commencement of this act the motion books of the said court shall be deemed open in the registrar's office of the said court during the sittings of the court, and accordingly that all orders to be made in open court in causes, including motions to vacate recognizances, or in causes and matters, shall henceforth during the sitting of the court be made and entered without petition, except in such cases as from their nature or by statutory enactments require a petition to be preferred, or unless the court shall, for special reason in any particular case, require a petition to be preferred.

Decrees and orders of the court.

IV. That any person shall be at liberty to take an office copy of so much only of any decree, order, report, or exceptions as he may require, and that, unless the court shall otherwise specially direct, no recitals shall be introduced in any decree or order of the said court, but the pleadings, petition, notice, report, evidences, affidavits, exhibits, or other matters or documents on which such decrees or orders shall be founded shall merely be referred to; and it shall be lawful for the lord chancellor, if he shall think fit, with the advice and assistance of the master of the rolls, to make and issue such rules and regulations as to the form of such decrees and orders as he may deem necessary or proper for the proper drawing up of such decrees and orders, and carrying into effect the provisions of this act in regard thereto.

Sales or mortgages under decrees or orders of the court.

V. That where any decree or order of the said court shall direct any sale, mortgage, or other dispositions of lands, or any other property whatsoever, to be had before any master, or any other officer of the said court, it shall and may be lawful for such master or other officer of the said court to proceed and sell, and such master and other officer is hereby required to proceed and sell, in pursuance of such decree or order, the subject matter thereby directed to be sold, upon production

of the attested copy of such decree or order signed by the register, and without in any way requiring an enrolment or exemplification of such decrees or order to be produced to warrant the sale, mortgage, or other disposition by the decree or order directed.

No. X.
4 & 5 W. 4,
c. 78.

VI. That in all cases the service of an attested copy of any decree or order of the said court shall be a sufficient service thereof to warrant an attachment and all subsequent proceedings for not complying with such decree or order; and that it shall and may be lawful for the court to proceed by attachment or otherwise as it shall deem proper, upon the service of such attested copy, without requiring an exemplification of such decree or order to be served as a warrant for any attachment or subsequent proceeding for not complying with such decree or order.

Service of an attested copy of a decree to be sufficient to warrant attachment.

VII. That the court may, on petition, appoint a receiver of the real and personal estate of a minor or minors without a bill being filed for that purpose; and that in all cases in which a receiver shall be appointed on petition, it shall and may be lawful for the court to make all such orders as may be necessary from time to time for the recovery of the rents or for the setting of the lands and premises over which such receiver shall be appointed, as fully and effectually as if such receiver had been appointed under a bill filed.

The court may appoint a receiver of estates of minors.

VIII. That when any person who has been or shall be directed by any decree or order of the said court to execute any deed or other instrument, or make a surrender or transfer, or to levy a fine, or suffer a recovery, if it shall appear upon affidavit or affidavits to be made to the satisfaction of the court that such person refuses, declines, or neglects to execute same, it shall and may be lawful for the court, after the expiration of ten days from the service of the decree or order personally, and tender of such deed or instrument for execution, to make an order, upon motion in open court, that one of the masters in ordinary of the said court shall execute such deed or other instrument, or make such surrender or transfer, or levy such fine, or suffer such recovery, in the name of such person, and do all acts necessary to give validity and operation to such fine and recovery, and to lead or declare the uses thereof; and the execution of the said deed or other instrument, or the surrender or transfer, made by the said master, and the fine or recovery levied or suffered by him, shall in all respects have the same force and validity as if the same had been made or executed, levied or suffered by the party himself.

If any person neglects to execute any deed or transfer, the court may order a master in ordinary to execute the same.

IX. That from and after the commencement of this act it shall and may be lawful for the deputy keeper of the rolls for the time being, and also for the clerk of the enrolments for the time being, and the persons who shall hereafter be appointed from time to time to the said offices respectively, and they are hereby respectively fully authorized, empowered, and required, to administer the oaths, and take the affirmations and attestations of honour, which may be required by the practice of the said court, to all pleadings to be filed or lodged in the rolls office of the said court, and also to administer the proper and necessary oaths and affirmations to the returns of all commissions to take such pleadings, in like manner and to the like extent as the masters in ordinary of the said court, and the several clerks and examiners of the said masters, are now authorized to administer the same, any thing contained in an act passed in the sixth year of the reign of his late Majesty king George the fourth, intituled *An Act to amend an Act of the Fourth Year of his present Majesty's Reign, for the better Administration of Justice in the Court of Chancery in Ireland*, to the contrary notwithstanding; and that the said masters in ordinary, and their clerks or examiners, shall no longer administer the said oaths or take the said affirmations or attestations of honour, without prejudice to their rights and jurisdictions to administer oaths and take affirmations and attestations of honour to all documents or proceedings not herein specified: Provided always, That the deputy keeper of the rolls, or clerk of the enrolments in the absence

The deputy keeper of the rolls or clerk of enrolments may administer oaths and take affirmations.

6 G. 4, c. 30.

Masters in ordinary and their clerks not to administer oaths.

Proviso for the deputy keeper

No. X.
4 & 5 W. 4,
c. 78.

of the rolls
and clerk of the
inrolments.

of the deputy keeper of the rolls, shall not be required, except under special order of the court, to go out of his office to administer the said oaths or take the said affirmations or attestations of honour pursuant to this act; and provided also, That whenever either of the said officers shall be required by any order of the court to attend out of the said office for the purposes aforesaid, the charge for every such attendance of the deputy keeper of the rolls or clerk of the inrolments, as the case may be, together with the rate of his travelling expences, if any, shall be expressed in such order of the court; and that it shall and may be lawful for the said deputy keeper of the rolls or the clerk of the inrolments respectively to receive such sum for his attendance, and also such rate of travelling expences, as shall be expressed in such order of the court, and no other or greater sum.

Persons swear-
ing before de-
puty keeper or
clerk of inrol-
ments to be
subject to pe-
nalties for
perjury.

Stamp duties
imposed by
4 G. 4, c. 70,
to continue to
be collected.

X. That all persons swearing to, affirming, or attesting the said documents or any of them before the said deputy keeper of the rolls, or before the said clerk of the inrolments, as the case may be, shall be liable to all such penalties, punishments, and consequences for any wilful and corrupt false swearing or perjury contained therein, as if the same had been sworn, affirmed, or attested before the said court of chancery, or all or any of the masters in ordinary thereof.

XI. That all and every the stamp duties imposed and enacted by the act made in the fourth year of the reign of his late Majesty king George the fourth, intituled *An Act to grant additional Stamp Duties on certain Proceedings in the Court of Chancery and in the Equity Side of the Court of Exchequer in Ireland*, and the schedule thereto annexed, shall continue and be collected and enforced as to the said documents and every of them as fully and effectually as if the said last-mentioned act were re-enacted and expressly applied to the said documents and each of them when transacted as part of the business of the deputy keeper of the rolls, or clerk of the inrolments, as the case may be.

Masters in or-
dinary empow-
ered to hear
matters relating
to the conduct
of suits, and to
direct the pay-
ment of costs.

XII. That the said masters in ordinary of the said court shall have authority to hear and determine and make orders upon all such matters relating to the conduct of suits in their respective offices as the lord chancellor with the advice and assistance of the master of the rolls, by any general order or orders, shall direct; and that it shall and may be lawful for the said masters to order and direct that the costs of all or any of the parties upon any proceedings before them shall be costs in the cause or matter, or to be forthwith paid by and to such person or persons as they shall deem just, or to award such liquidated sum by way of costs to any of the parties as they shall think reasonable, and to be paid by such person or persons or out of such fund as they shall deem just; and the said master shall cause all such orders to be drawn up in a short form, and when signed shall cause the same to be entered in books to be kept for that purpose exclusively in their respective offices; and all such orders, if not reversed or varied, shall be as binding as an order of the court itself, and the costs awarded thereby shall be recovered in like manner as costs directed to be paid by the court itself.

Depositions.
General orders.

XIII. That henceforth all depositions of witnesses examined in the said court shall be taken in the first person, and in no other form; and that it shall and may be lawful for the lord chancellor, by and with the advice and assistance of the master of the rolls, to make and issue such general orders as he shall think fit for abolishing or altering any writ or writs of process, or any pleading or course of proceeding in suits now pending or hereafter to be commenced in the said court; and that it shall and may be lawful for the lord chancellor, with the advice and assistance of the master of the rolls, and he is hereby required, forthwith to make and issue such general orders as he shall think fit for carrying the provisions of this act into execution; and also such other rules and orders, not being inconsistent with the enactments and provisions of this act, as he, with the advice and assistance of the master of the rolls, shall think fit and proper for simplifying, establishing, and settling the course of practice of the said court and of its several offices.

XIV. That the lord chancellor, by and with the advice and assistance of the master of the rolls, shall be and he is hereby authorized and empowered, by any general order or orders to be made and issued by him from time to time, to annul, alter, or vary any general order or orders which may have been so as aforesaid made and issued, and to make any new general order or orders for the purposes herein-before mentioned, or any of them.

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4 & 5 W. 4,
c. 78.

General orders
may be varied.

XV. That the several offices of the said court of chancery shall be and continue open for the dispatch of business upon such days of the year and during such hours in the day, and that the officers and clerks belonging thereto respectively shall attend in such offices in the discharge of their several duties during such times and for such number of hours in each day, as the lord chancellor, with the advice and assistance of the master of the rolls, shall by any general order or orders to be issued from time to time direct; and that the officers and clerks in the said respective offices shall give their personal attendance in their respective offices in the discharge of their official duties during the times they shall so as aforesaid be directed to attend, unless otherwise engaged in the business of their respective offices, or unless prevented by sickness or other unavoidable cause: Provided always, That where any office can be legally executed by deputy, nothing herein contained, or in any order to be made in pursuance thereof, shall be construed to compel the principal to attend in person.

Hours of business in the several offices.

XVI. That each of the said masters in ordinary of the high court of chancery shall, within the first four days of Michaelmas term in each and every year, present or cause to be presented to the lord chancellor a report in writing, under the hand of such master, stating the days on which he shall have attended at his office, for and during twelve months preceding such return, in the performance of his duty, specifying the number of hours occupied in each of such day's attendance as aforesaid, and further, that each such master shall annex to such his report a list or schedule, to be signed by him in like manner, of the several causes, petitions, or matters of every description then pending in his office, showing the then state and stage of the same respectively, designating each cause, petition, or matter by the name or names of the party or parties thereto, or some of them, with the name or names of each solicitor engaged therein, and also the state of the account of each receiver, committee of a lunatic, or guardian of an infant, whose accounts are passed in his office, and the balance (if any) remaining in the hands of such receivers, committees, and guardians respectively; and thereupon it shall be lawful for the said lord chancellor to make and issue such order for filing or depositing and otherwise giving publicity and access to such list or schedule as he in his discretion shall think fit.

Masters in ordinary to report certain particulars annually to the lord chancellor.

XVII. That no person shall be compelled or required to take or pay for any copy of any paper or document being in any office of the said court; and that every person shall be at liberty to take out and pay for only so much or such part of any paper or document being in any office of the said court as such person may require, without being in any case compelled to take out or pay for the entire of the paper or document being in the office.

Persons not compelled to pay for the entire copy of a paper when requiring only a portion of it.

XVIII. That the powers and authorities given by this act to the lord high chancellor of Ireland shall and may be exercised in like manner and are hereby given to the lord keeper or lords commissioners for the custody of the great seal of Ireland respectively for the time being.

Powers given to the lord chancellor may be exercised by the lord keeper.

XIX. And whereas by an act passed in the parliament of Ireland, in the twenty-third and twenty-fourth years of the reign of his late Majesty king George the third, intituled *An Act for the better securing the Monies and Effects of the Suitors of the Court of Chancery and the Court of Exchequer by depositing the same in the National Bank, and to prevent the forging and counterfeiting any Draft, Order, or other Voucher for the Payment or Delivery of such Money or Effects, or other Purposes*, it was enacted, that all the monies and cash that shall be paid into and deposited

24 G. 3. (I.)

No. X.
4 & 5 W. 4.
c. 78.

Part of the
suits fund to
be set apart for
a compensation
fund.

in the said bank on account of the suitors of the said court of chancery, or by order of the said court, shall be accounted and taken to be one common or general fund, and to be issued and payable as the court of chancery shall direct: And whereas from many years experience it hath been found that there always hath been a very large sum of money belonging to the suitors of the court of chancery in Ireland lying in the said bank unproductive to the suitors of the said court: And whereas it is expedient that a part of the said money belonging to the suitors of the said court should be rendered productive for the purposes herein-after mentioned; be it therefore enacted, That out of the cash belonging to the suitors of the said court of chancery which now lies in the bank of Ireland unproductive to the suitors a sum of two hundred thousand pounds shall and may, by any order or orders of the said court, be invested in one entire sum, or in parcels, in such government or parliamentary securities as in and by such order or orders shall be directed, and be placed to an account to be intituled "An Account of the Compensation and Fee Fund of the Suitors of the Court of Chancery in Ireland," to the intent that the interest and annual profits arising from the money so to be placed out as aforesaid may be applied for the purposes herein-after mentioned; and it shall be lawful for the said court, from time to time, by any order or orders to be made for the purpose, to change the security or securities on which the said money shall be invested.

Produce of the
fund to be
placed to the
account of the
accountant-general
in the
bank of Ire-
land.

XX. That the interest and annual produce arising from the securities in which the said sum of two hundred thousand pounds shall be invested shall from time to time be received by the governor and company of the bank of Ireland, and placed to the credit of the accountant general of the said court, in an account to be opened and called "An Account of the Interest and Produce of the Compensation and Fee Fund of the Suitors of the Court of Chancery in Ireland;" the same to be issued and applied pursuant to the directions of this act.

Court of chan-
cery may direct
the same to be
called in.

XXI. That if at any time the whole or any part of the said sum of two hundred thousand pounds shall be wanted to answer any of the demands of the suitors of the said court of chancery, then and in such case the court may and shall direct the same or any part thereof to be called in, or the securities on which the same shall be placed to be disposed of, in order that the suitors of the said court may at all times be paid their respective demands out of the common and general cash belonging to such suitors.

Surplus of in-
terest to be in-
vested in go-
vernment secu-
rities.

XXII. That the surplus interest and produce of the monies carried to the said account called "An Account of the Interest and Produce of the Compensation and Fee Fund of the Suitors of the Court of Chancery in Ireland," beyond what shall be sufficient to answer the purposes of compensation under this act, and also the interest produced from the securities purchased with such surplus interest and produce, shall from time to time, by like order or orders of the said court, be invested in the purchase of government or parliamentary securities, and carried to the account called "An Account of the Interest and Produce of the Compensation and Fee Fund of the Suitors of the Court of Chancery in Ireland;" the same to constitute part of said fund to be issued and applied pursuant to and according to the directions of this act.

Lords of the
treasury may
make compen-
sation to six
clerks and
other officers.
4 G. 4, c. 61.

XXIII. And whereas the six clerks of the said court are entitled to sell their respective offices, and all the present six clerks, save John Brenan, have purchased their said respective offices for large sums of money, since the passing of an act in the fourth year of the reign of king George the fourth, intituled *An Act for the better Administration of Justice in the Court of Chancery in Ireland*, and have paid into his Majesty's exchequer in Ireland, to the use of the public, one-fifth part of the said purchase-money: And whereas it is alleged that the income and emoluments of the respective six clerks, and of certain other officers of the said court, have been diminished in consequence of certain orders, bearing date the thirty-first day of January one thousand eight hundred

and thirty-four, and will be further diminished by the operations of this act, and of the general orders to be made in pursuance thereof, for which the said six clerks and other officers claim to have compensation made: And whereas it is reasonable and just that the six clerks of the said court, being purchasers of and entitled to sell at pleasure their respective offices, should receive for any diminution of annual income, and also for any depreciation of purchase value of their offices, full and adequate compensation; and also that such of the other officers of the said court as the lord high treasurer or the commissioners of his Majesty's treasury as herein-after provided shall think entitled thereto should also receive compensation for lawful fees and emoluments diminished or taken away from the said six clerks and other officers by the operation of the said general orders of the thirty-first day of January one thousand eight hundred and thirty-four, and of this act, and any general order or orders to be made in pursuance thereof; be it therefore enacted, That it shall be lawful for the lord high treasurer or commissioners of his Majesty's treasury for the time being, or any three or more of them, by warrant or warrants under their hands, to order and direct that such compensation shall be made to the said six clerks respectively, and to such other officers who now hold office in or belonging to the said court, and whose lawful fees and emoluments have been or shall be diminished by the operation of the said orders of the thirty-first day of January one thousand eight hundred and thirty-four, or by this act, or any general order or orders to be made in pursuance thereof, as to the said lord high treasurer or the said commissioners of his Majesty's treasury in their discretion shall seem just and reasonable; Provided always, that an account or accounts of all such compensations shall, within fourteen days next after the same shall be so granted, be laid upon the table of the house of commons, if parliament shall be then assembled, or if parliament shall not be then assembled, then within fourteen days after the meeting of parliament then next following; and provided also, that such warrant or warrants for compensation shall not be valid until after the expiration of three weeks from the time the account or accounts of compensation shall be laid before parliament.

XXIV. And whereas for the better enabling the lord high treasurer or the commissioners of his Majesty's treasury to form a correct judgment of the nature and amount of the compensations which it may be reasonable and proper to make to the officers who shall claim compensation for fees and emoluments taken away or diminished as aforesaid, be it enacted, That it shall be lawful for the lord high treasurer or the commissioners of his Majesty's treasury for the time being, or any three or more of them, if he or they shall think fit, to refer all and every the accounts and claims for compensation to the examination and consideration of so many persons to be commissioners for carrying this act into execution and effect as may to him or them appear fit and necessary, and every three or more of the commissioners to be so appointed shall be competent to act in the execution thereof.

XXV. That the lord high treasurer and the commissioners of his Majesty's treasury, or any three or more of them, and also the commissioners or any three or more of them to be appointed under this act, shall be authorized to inquire and examine as well into all acts, matters, and things for which any fee or emolument has been received or claimed, and the legality thereof, as well as the amount of the fees or emoluments contained in any account to be furnished under this act, and of all disbursements and allowances made in respect of business performed in the offices respectively, and of all charges affecting the same, and to require proof to be made upon oath, either personally or in writing, of any matter, and to examine any such officer or other person upon oath as to any matters into which the lord high treasurer or the said commissioners may think proper or necessary to inquire, which oath may be administered either by the lord high treasurer or the commissioners of his Majesty's treasury, or any three or more of them, or by the com-

No. X.
4 & 5 W. 4,
c. 78.

Commissioners
to settle
amount of com-
pensation.

Lords of the
treasury and
commissioners
to inquire into
fees.

No. X.
4 & 5 W. 4,
c. 78.

missioners to be appointed under this act, or any three of them, or by a judge or master in ordinary of the said court; and also to cause the production for his or their inspection and examination of all books, papers, and other documents which he or they shall deem requisite for the purposes of this act; and also that it shall be lawful for him or them to consult the lord chancellor or the master of the rolls upon the legality, propriety, and reasonableness of any fees or matters connected therewith; and the lord chancellor or master of the rolls shall and is hereby required to give his advice and opinion thereon, in writing, as early as the same can reasonably be done.

Commissioners
of treasury may
refer accounts
to masters in
ordinary.

XXVI. That it shall be lawful for the lord high treasurer or any three or more of the commissioners of his Majesty's treasury, if he or they shall deem it proper so to do, to refer all or any accounts to be furnished under this act to any one or more of the masters in ordinary of the said court, who shall by all the ways and means herein-before provided, inquire into and examine the same, and shall fairly settle and certify in writing to the lord high treasurer or the commissioners of his Majesty's treasury the net and gross amount of the fees and emoluments and the disbursements of every kind to which such accounts relate.

Officers claim-
ing compensa-
tion to make a
return of the
profits of their
office.

XXVII. That every officer of the said court who shall claim compensation under this act shall within three calendar months next after the commencement of this act make or cause to be made out and rendered to the lord high treasurer or the commissioners of his Majesty's treasury, or, if so required, to the commissioners to be appointed under this act, an account in writing of the gross and net emoluments, and also of the disbursements of his office in each of the three years next preceding the first day of November one thousand eight hundred and thirty-three, and also an account of all lawful fees, salary, compensation, emoluments, or allowances of whatever nature as shall have been received during the said three years by the said officer, or for his use, or which upon any account or in any way shall have become due in respect of such office or the duties thereof, and shall also set forth a particular of the several and respective acts, matters, and things in respect of which any fee or emolument shall have been received, charged, or claimed; and also a particular of all allowances and disbursements made thereout, and charges affecting the same, in each of the said three years, with such further particulars of receipt and disbursements as the lord high treasurer or any three or more of the commissioners of his Majesty's treasury or of the commissioners to be appointed under this act shall direct, the said accounts to be verified on oath, to be sworn before one of the masters of the said court, which oath the said master is hereby authorized and required to administer; and the lord high treasurer or the said commissioners as aforesaid shall ascertain by all proper ways and means as aforesaid the gross and net annual value, according to a fair average of the said three years, of the said lawful fees and emoluments, and also the disbursements of such officer as aforesaid.

Officers may
make an an-
nual return of
the profits of
their office.

XXVIII. That it shall be lawful for every officer claiming compensation as herein-before mentioned, on the first day of Hilary term one thousand eight hundred and thirty-six, and on every succeeding first day of Hilary term, and for one month thereafter in each year respectively, so long as the said officer shall hold his office, to make or cause to be made out, and render to the lord high treasurer or the commissioners of his Majesty's treasury, an account in writing, to be verified in like manner, of the gross and net emoluments of the said office, and of the disbursements thereof, in such form and with such particulars of receipt and otherwise as the lord high treasurer or the commissioners of his Majesty's treasury, or any three or more of them, shall require; and also an account of all such lawful fees, salary, compensation, emoluments, and allowances, of whatever nature, as shall have been received by the said officer, or for his use, or which upon any account or in any way shall have become due in respect of such office, or the duty thereof, and

the several and respective acts, matters, and things in respect of which the same shall have been received or claimed, and a particular of all allowances and disbursements made thereof, and charges affecting the same, in and for the year next preceeding the first day of Hilary term in each succeeding year, as herein-before required; and the lord high treasurer or the said commissioners as aforesaid shall ascertain as they shall think proper the gross and net income of such office, and also the disbursements thereof, for and during the year for which such account shall be rendered, and the amount of compensation to which he or they shall deem such officer entitled for and during the said year.

XXIX. That every officer and other person who shall swear falsely to any matters respecting which an oath, either personally or in writing, is hereby required or authorized to be made, and shall be convicted of doing wilfully and corruptly, shall be deemed guilty of wilful and corrupt perjury, and shall suffer the pain and penalty of that offence.

XXX. That when the said commissioners to be appointed under this act shall have ascertained the gross and net value of the fees and emoluments of such offices and employments, or any of them, computed as aforesaid, together with the particulars of the disbursements, allowances, and charges constituting the difference between such gross and net annual value, they shall from time to time certify the same under their hands to the lord high treasurer or commissioners of his Majesty's treasury for the time being, who shall lay copies of the same, as also of all like certificates made by the lord high treasurer or the commissioners of the treasury under this act, before both houses of parliament.

XXXI. That the several and respective sums as and for compensation which the lord high treasurer or the commissioners of his Majesty's treasury shall, by warrant or warrants as aforesaid, order and direct to be paid to any officer of the said court shall be paid and payable to the officer or officers named in such warrant or warrants out of the account called "An Account of the Interest and Produce of the Compensation and Fee Fund of the Suitors of the Court of Chancery in Ireland," as far as the same will extend; and in case the said suitors fund shall be inadequate to the payment of the whole amount of compensation to be given under this act, the amount of the compensations beyond what can be satisfied out of the said suitors fund shall be charged upon and paid out of the consolidated fund of the united kingdom, without any fee or deduction whatsoever, to the officer or officers named in the warrant or warrants of the lord high treasurer or the commissioners of his Majesty's treasury as aforesaid.

XXXII. That no payment or transfer of any sum or sums of money to be made under or by virtue of this act, or any of the provisions thereof, shall be subject or liable to the payment of usher's poundage; and provided also, that every order to be made for the transfer, investment, or payment of any money under this act or any of the provisions thereof shall be free of and discharged from the payment of any fee whatsoever to any officer of the said court.

XXXIII. That in case any officer of the said court entitled to compensation under this act shall die or resign or be dismissed from his office or employment before the termination of any year, the executors or administrators of the person so dying, or the person himself so resigning or dismissed, shall render such account as aforesaid for such part of the year during which the person so dying or resigning or dismissed shall have held such office or employment, and shall be entitled to claim and receive such sum proportioned to that part of the year during which such person shall have held his said office as the lord high treasurer or any three of the commissioners of his Majesty's treasury for the time being shall deem just and proper.

XXXIV. And whereas it is alleged that the purchase value of the office of six clerk in the said court will be diminished by the operation of this act and the general orders to be made in pursuance thereof; be it therefore enacted, That if any six clerk shall after the commencement

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4 & 5 W. 4,
c. 78.

Officers swear-
ing falsely to
be guilty of
perjury.

Commissioners
to certify value
of officers to
lords of the
treasury.

If fund not suf-
ficient, the re-
mainder to be
paid out of the
consolidated
fund.

Payments not
to be liable to
usher's
poundage.

If officer dies
pending inquiry
his executors
to make
returns.

Six clerks sell-
ing their office
may receive

No. X.
4 & 5 W. 4
c. 78.

compensation
for the diminu-
tion of value.

of this act sell his said office, it shall be lawful for him at any time within six calendar months after such sale to apply to the said lord high treasurer or the commissioners of his Majesty's treasury for compensation for such diminution of value, and in such case it shall and may be lawful for the lord high treasurer, or the commissioners of his Majesty's treasury, or such commissioners as shall be appointed by them under this act, to examine into such application and claim by all and every or such means as herein-before provided as he or they shall think proper, and thereupon it shall be lawful for the said lord high treasurer and the commissioners of his Majesty's treasury, or any three of them, to order and direct that such annual or other compensation shall be made to the six clerks claiming the same as he or they in their discretion shall upon full inquiry deem just and reasonable; and all such compensation, whether annual or in gross, shall be charged upon and paid and payable out of the consolidated fund of the united kingdom of Great Britain and Ireland without any fee or deduction whatsoever.

Act not to pre-
vent dismissal
of officers.

XXXV. That nothing herein contained shall be construed to prevent any person now holding any office or employment, or that shall hereafter hold any office or employment in the said court, from being dismissed therefrom, as if this act had not been made, or to give him any greater or other interest in such office or employment than he might have lawfully claimed or exercised if this act had not been made.

Officers here-
after appointed
not to be en-
titled to com-
pensation.

XXXVI. That no person who after the passing of this act shall be appointed to any office or employment in or belonging to the said court shall be deemed entitled to prefer any claims for or to obtain any compensation in respect of any alteration of any kind whatsoever which shall be made by lawful authority in the constitution, process, practice, pleadings, or other proceedings, or in the constitution, duties, or emoluments, of any of the offices or employments in the said court.

Commence-
ment of act.

XXXVII. That this act, and the several provisions therein contained, shall commence and take effect from the first day of Hilary term one thousand eight hundred and thirty-five.

[No. XI.] 4 & 5 W. IV. c. 82.—An Act to amend and extend an Act of the Second Year of His present Majesty, to effectuate the Service of Process issuing from the Courts of Chancery and Exchequer in England and Ireland.

[15th August 1834.]

2 W. 4. c. 33.

Provisions of
recited act re-
lating to suits
concerning
lands extended
to suits con-
cerning charges
or liens on
lands.

WHEREAS by an act passed in the second year of the reign of his present Majesty, intituled *An Act to effectuate the Service of Process issuing from the Courts of Chancery and Exchequer in England and Ireland respectively*, certain provisions have been made for rendering more effectual the process of the said courts respectively in the cases therein mentioned: And whereas it is expedient to amend and extend the said act in the manner herein-after provided: Be it therefore enacted, &c., That all the provisions contained in the said act relating to suits instituted in the said courts respectively concerning lands, tenements, or hereditaments situate in England or Wales or in Ireland respectively, shall be extended and applied to all suits instituted in the said courts respectively concerning any charge, lien, judgment, or incumbrance thereon, or concerning any money vested in any government or other public stock, or public shares in public companies or concerns, or concerning the dividends or produce thereof; and the provisions in the said act authorizing the said courts respectively to direct that the service in any part of the united kingdom of Great Britain or Ireland, or the Isle of Man, respectively, of any subpoena or subpoenas, letter missive or letters missive, and of all subsequent process to be had thereon, upon any defendant or defendants in such suit, then residing in such

parts of the united kingdom or the Isle of Man in which he, she, or they should be so served, should be deemed good service of or be made upon such defendant or defendants, upon such terms, and in such manner, and at such time as to such courts respectively should seem reasonable, and that thereupon it should and might be lawful for such courts respectively to proceed upon such service as fully and effectually as if the same had been duly made within the jurisdictions of such courts respectively, shall be and they are hereby extended to any defendant or defendants in any such suit or suits as herein-before mentioned, who shall appear by affidavit to be resident in any place, specifying the same, out of the united kingdom of Great Britain and Ireland; and that it shall and may be lawful for the said courts respectively, on motion in open court of any of the complainants in any such suit, founded upon an affidavit or affidavits, and such other documents as may be applicable for the purpose of ascertaining the residence of the party, and the particulars material to identify such party and his residence, and also specifying the means whereby such service may be authenticated, and especially whether there are any British officers, civil or military, appointed by or serving under his Majesty residing at or near such place, to order that service of a subpoena to appear and answer upon the party in the manner thereby directed, or, in case where the said courts respectively shall deem fit, upon the receiver, steward, or other person receiving or remitting the rents of the lands or premises, if any in the suit mentioned, returnable at such time as the said courts respectively shall direct, shall be deemed good service of such party, and afterwards, upon an affidavit of such service had, to order an appearance to be entered for such party in such manner and at such time as the said courts respectively shall direct, and that thereupon it shall and may be lawful for such courts respectively to proceed upon such service so made as aforesaid as fully and effectually as if the same had been duly made within the jurisdictions of such courts respectively.

No. XI.
4 & 5 W. 4,
c. 82.

II. That where it shall appear upon affidavit, to be made to the satisfaction of the said courts respectively, that any defendant in any such suit as herein-before mentioned cannot by reasonable diligence be personally served with the subpoena to appear and answer, or that upon inquiry at his usual place of abode he could not be found so as to be served with such process, and that there is just ground for believing that such defendant secretes or withdraws himself so as to avoid being served with the process of such court, then and in all such cases it shall and may be lawful for the court to order that the service of the subpoena to appear and answer shall be substituted in such manner as the court shall think reasonable and direct by such order.

Service of subpoena in cases where defendants cannot be found.

[No. XII.] 5 & 6 W. IV. c. 16.—An Act for altering and amending the Law regarding Commitments by Courts of Equity for Contempts, and the taking Bills *pro Confesso* in Ireland.
[30th July 1835.]

WHEREAS it is expedient to amend the law regarding commitments by courts of equity for contempts, and the taking bills *pro confesso*, in Ireland; be it therefore enacted, &c., That the marshal of the marshalsea of the four courts prison shall keep a register of the names of all persons committed by the courts of equity for contempts, stating the dates and the grounds of their several commitments, and the dates of their respective discharges, and shall, on the twentieth day of January, the twentieth day of April, the twentieth day of July, and the twentieth day of October, in every year, make a report to the lord chancellor of the names and descriptions of such prisoners in his custody on each of such days respectively, with the causes and dates of their respective commitments.

Marshal of the four courts prison to keep a register of persons committed for contempts, and report four times a year to the lord chancellor.

No. XII.
5 & 6 W. 4,
c. 16.

Manner of proceeding in case of persons not appearing within the usual time after subpoena or other process has been issued.

II. And whereas sometimes persons have withdrawn themselves beyond the seas, or otherwise absconded, to avoid appearing in courts of equity, or being served with process for that purpose, or being brought into court by habeas corpus, have refused to appear; for remedy of the inconvenience thence ensuing, be it further enacted, That if in any suit, not being for the foreclosure of a mortgage, which hath been or hereafter shall be commenced in any court of equity, any defendant against whom any subpoena or other process shall issue shall not cause his appearance to be entered upon such process within such time and in such manner as according to the rules of the court the same ought to have been entered in case such process had been duly served, and an affidavit or affidavits shall be made to the satisfaction of such court that such defendant is beyond the seas, or that upon inquiry at his usual place of abode he could not be found so as to be served with such process, and that there is just ground to believe that such defendant is gone out of the realm, or has otherwise absconded, to avoid being served with the process of such court, then and in such case the court out of which such process issued may make an order directing and appointing such defendant to appear at a certain day therein to be named; and a copy of such order shall, within fourteen days after such order made, be inserted in the *Dublin Gazette*, and published on some lord's day immediately after divine service in the parish church where such defendant made his usual abode within thirty days next before such his absenting, and also a copy of such order shall within the time aforesaid be posted up in some public place at the Royal Exchange in Dublin; and if the defendant do not appear within the time limited by such order, or within such further time as the court shall appoint, then, on proof made of such publication of such order as aforesaid, the court, being satisfied of the truth thereof, may order the plaintiff's bill to be taken *pro confesso*, and make such decree thereupon as shall be thought just, and may thereupon issue process to compel the performance of such decree, either by an immediate sequestration of the real and personal estate and effects of the party so absenting (if any such can be found), or such part thereof as may be sufficient to satisfy the demands of the plaintiff in the said suit, or by causing possession of the estate or effects demanded by the bill to be delivered to the plaintiff, or otherwise, as the nature of the case shall require; and the said court may likewise order such plaintiff to be paid and satisfied his demands out of the estate or effects so sequestered, according to the true intent and meaning of such decree, such plaintiff first giving sufficient security in such sum as the court shall think proper to abide such order touching the restitution of such estate or effects as the court shall think proper to make concerning the same upon the defendant's appearance to defend such suit, and paying such costs to the plaintiff as the court shall order; but in case such plaintiff shall refuse or neglect to give such security as aforesaid, then the said court shall order the estate or effects so sequestered, or whereof the possession shall be decreed to be delivered, to remain under the direction of the court, either by appointing a receiver thereof, or otherwise, as to such court shall seem meet, until the appearance of the defendant to defend such suit, and his paying such costs to the plaintiff as the said court shall think reasonable, or until such order shall be made therein as the court shall think just.

Persons in custody so neglecting to be served with a copy of the decree.

III. Provided always, That if any person against whom any decree shall be made upon refusal or neglect to enter his appearance, or appoint a clerk in court or attorney to act on his behalf, shall be in custody or forthcoming, so that he may be served with a copy of such decree, then he shall be served with a copy thereof before any process shall be taken out to compel the performance thereof.

Persons out of the realm affected by such decrees, if they return within

IV. Provided also, That if any decree shall be made in pursuance of this act against any person being out of the realm, or absconding in manner aforesaid, at the time such decree is pronounced, and such person shall within seven years after the making such decree return or be-

come publicly visible, then and in such case he shall likewise be served with a copy of such decree within a reasonable time after his return or public appearance shall be known to the plaintiff; and in case any defendant against whom such decree shall be made shall within seven years after the making such decree happen to die before his or her return into this realm, or appearing openly as aforesaid, or shall within the time last before mentioned die in custody before his or her being served with a copy of such decree, then his or her heir, if such defendant shall have any real estate sequestered, or whereof possession shall have been delivered to the plaintiff, and such heir may be found, or if such heir shall be a feme covert, infant, or *non compos mentis*, the husband, guardian, or committee of such heir respectively, or if the personal estate of such defendant be sequestered, or possession thereof delivered to the plaintiff, then his executor or administrator (if any such there be), may and shall be served with a copy of such decree within a reasonable time after it shall be known to the plaintiff that the defendant is dead, and who is his heir, executor, or administrator, or where he may be served therewith.

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seven years, to
be served with
a copy, or, in
case of death,
their heirs, &c.

V. Provided always, That if any person so served with a copy of such decree shall not within six months after such service appear and petition to have the said cause reheard, such decree so made as aforesaid shall stand absolutely confirmed against the person so served with a copy thereof, his heirs, executors, and administrators, and all persons claiming or to claim by, from, or under him or any of them by virtue of any act done or to be done subsequent to the commencement of any suit.

Persons not
petitioning a
rehearing of the
cause within
six months, the
decree to be
absolutely con-
firmed.

VI. Provided always, That if any person so served with a copy of such decree shall within six months after such service, or if any person not being so served shall within seven years next after the making such decree, appear in court and petition to be heard with respect to the matter of such decree, and shall pay down or give security for payment of such costs as the court shall think reasonable in that behalf, the person so petitioning, or his representatives, or any person claiming under him by virtue of any act done before the commencement of the suit, may be admitted to answer the bill exhibited, and issue may be joined, and witnesses on both sides examined, and such other proceedings, decree, and execution may be had thereon, as there might have been in case the same party had originally appeared, and the proceedings had then been newly begun, or as if no former decree or proceedings had been in the same cause.

Persons peti-
tioning a re-
hearing within
seven years,
and giving se-
curity for costs,
admitted to
answer, and the
cause to be
heard again.

VII. Provided always, That if any person against whom such decree shall be made, his heirs, executors, or administrators, shall not within seven years next after the making of such decree appear and petition to have the cause reheard, and pay down or give security for payment of such costs as the court shall think reasonable in that behalf, such decree made as aforesaid shall stand absolutely confirmed against the person against whom such decree shall be made, his heirs, executors, and administrators, and against all persons claiming or to claim by, from, or under him, or any of them, by virtue of any act done or to be done subsequent to the commencement of such suit; and at the end of such seven years it shall and may be lawful for the court to make such further order as shall be just and reasonable, according to the circumstances of the case.

Persons not ap-
pearing within
seven years,
and making
such petition,
to be abso-
lutely barred.

VIII. Provided always, That this act shall not extend or be construed to extend to warrant or make good any proceeding against any person beyond the seas, unless it shall appear to the satisfaction of the court by affidavit or affidavits, before the making of such decree, that such person had been in Ireland within two years next before the subpoena in such suit issued against such person.

Not to affect
persons beyond
the seas, unless
in certain cases.

IX. And whereas in many cases persons having privilege of parliament are named as defendants in suits instituted in courts of equity against them, either alone or jointly with other persons, for enforcing

Appearances
may be put in
for defendants
having privi-

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lege of parliament in courts of equity, on return of process of sequestration.

In default of answer to bill in equity against persons having privilege of parliament, bill shall be taken pro confesso.

Such bill shall be read in evidence as an answer admitting the facts.

Rules for the court of chancery.

against them demands and duties cognizable in courts of equity, and in some cases such defendants having privileges of parliament have stood out to the return of process of sequestration issued against them for enforcing appearance, and such process of sequestration hath not been found sufficient to enforce such appearance; be it therefore enacted, That from and after the passing of this act, in case any defendant having privilege of parliament shall, upon a return of process of sequestration issued against him for not putting in an appearance to any original or other bill of complaint instituted against him in a court of equity for enforcing discovery and relief, or discovery alone, (as the case may be,) neglect to appear, that then and in such case such court, upon producing the return of such sequestration in court, may, on the motion or other application of the plaintiff in such cause, appoint a clerk in court to enter an appearance for such defendant so having privilege of parliament, and such proceedings may be thereupon had in the cause as if the party had actually appeared.

X. And whereas in many cases it is necessary, on the part of the persons having legal rights against persons having privilege of parliament, to proceed by bill in equity against such persons so having privilege of parliament, to obtain from them discovery on oath of facts intended to be used or given in evidence in courts of law against the persons making such discovery; and in cases where such persons having such privilege as aforesaid shall stand out process of contempt, parties entitled to such discovery against them have not sufficient means of compelling or obtaining the same in all cases; be it therefore enacted, That from and after the passing of this act, when any defendant having privilege of parliament shall have appeared to any bill filed against him seeking a discovery upon oath, or when an appearance shall have been entered for such defendant according to the provisions aforesaid, and that such person shall refuse or neglect to put in his answer to such bill within the time for that purpose allowed by the rules and orders of such court, that then it shall and may be lawful for the plaintiff in such suit to apply to the court for an order that such bill shall be taken *pro confesso* against such defendant, and upon such application such court of equity shall make an order that such bill shall be taken *pro confesso*, unless the defendant shall within eight days after being served with such order show good cause to the contrary.

XI. That when and so soon as any such order shall have been pronounced by any such court of equity for taking such bill *pro confesso*, such bill in equity, or an examined copy thereof, so taken *pro confesso*, shall be taken and read in any court of law or equity as evidence of the facts and matters in things therein contained, in the same manner as if such facts, matters, and things had been admitted to be true by the answer of the defendant put in to such bill; and such bill so taken *pro confesso* shall be received and taken in evidence of such and the same facts, and on behalf of such and so many persons, as the answer of the defendant to the said bill could and might have been read and received in evidence of in case such answer had been put in by the defendant thereto, and had admitted the same facts, matters, and circumstances as in such bill stated and set forth; and in like manner every other bill of discovery taken *pro confesso*, under any of the provisions of this act, shall or may be taken and read as evidence of the facts and matters and things therein contained, to the extent aforesaid.

XII. And for remedying the practice of courts of equity in regard to process of contempt and the taking of bills *pro confesso*, be it further enacted, That the rules and regulations herein-after provided and contained shall be adopted by the high court of chancery in Ireland, and shall from henceforth become orders and rules of the said court of chancery, and be observed and enforced in and by the said court; (that is to say,)

1. That where a defendant is confined for a misdemeanor, and has been brought before the court upon an habeas corpus, and thereupon has been turned over to the said marshalsea, *pro forma*, but has been carried back to the prison from whence he came with his cause, another writ of habeas corpus may issue, directed to the gaoler or keeper of the prison to which he has been carried back, and thereupon the defendant shall be brought into court, and remanded to the prison from whence he came, with his cause, without being turned over again to the said marshalsea, and the bill may be taken *pro confesso* in the same manner in all respects as if the defendant had been all along in the custody of the marshal of the said marshalsea.
2. That if the defendant, under process of contempt for not appearing or not answering, be in actual custody, and shall not have been sooner brought to the bar of the court under process to answer his contempt, the plaintiff, if the contempt be not sooner cleared, shall bring the defendant by an habeas corpus to the bar of the court within thirty days from the time of his being actually in custody, or detained (being already in custody) upon process of contempt, and if the last day of such thirty days shall happen out of term, then within the four first days of the ensuing term; and where the defendant is in custody of the serjeant at arms or of the messenger upon an attachment or other process the plaintiff shall, within ten days after his being taken into such custody, or if the last of such ten days shall happen out of term, then within the first four days of the next ensuing term, cause the defendant to be brought to the bar of the court; and in case any such defendant shall not be brought to the bar of the court within the respective times aforesaid the sheriff, gaoler or keeper, serjeant at arms or messenger, in whose custody he shall be, shall thereupon discharge him out of custody without payment by him of the costs of contempt, which shall be payable by the party on whose behalf the process issued; and this rule shall apply to every defendant in custody before and at the time of passing of this act who shall not have been brought to the bar of the court, but the thirty days allowed in the first above-mentioned case and the ten days allowed in the second above-mentioned case shall be reckoned from the first day of the next term.
3. That if a defendant, upon being brought before the court upon an habeas corpus, shall make oath (which shall be administered to him by the registrar, and he shall be examined in open court,) that he is unable by reason of poverty to employ a solicitor to put in his answer, the court shall thereupon refer it to a master in rotation to inquire into the truth of that allegation, and to report thereon to the court forthwith, and thereupon the court may make such order as upon other reports of the like nature under the provisions herein-after contained.
4. That on the thirtieth day of January, the thirtieth day of April, the thirtieth day of July, and the thirtieth day of October, in every year, or if any of those days happen on a Sunday, then on the following day, one of the masters of the court of chancery, to be named by the court, shall visit the said marshalsea prison, and examine the prisoners confined there for contempt, and shall report his opinion on their respective cases to the court; and thereupon it shall be lawful for the court to order, if it shall see fit, that the costs of the contempt of any such prisoner shall be paid out of the interest and dividends arising from the several government or parliamentary securities standing in the name of the accountant general of the said court of chancery, intituled "Account of Monies placed out for the Benefit and better Security of the Suitors of the High Court of Chancery," and "Account of Securities purchased with Surplus Interest arising from Securities carried to an Account of

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Monies placed out for the Benefit and better Security of the Suitors of the High Court of Chancery," or out of any cash standing to either of such accounts, or to any other account which is now or hereafter may be standing to the credit of the suitors of the said court of chancery, (after and subject to the payment of all charges which by any act heretofore passed are directed to be paid thereout,) and to assign a solicitor and council to such prisoner, for putting in his answer and defending him *in forma pauperis*, and to direct any such prisoner, having previously done such acts as the court shall direct, to be discharged out of custody; provided that if any such defendant shall become entitled to any funds out of such cause, the same shall be applied, under the direction of said court, in the first instance, to the reimbursement of the suitors fund.

5. That it shall be lawful for the master visiting the said marshalsea, or to whom the case of a prisoner shall be referred by the court itself, to examine the prisoner, and all other persons whom he may think it proper to examine upon oath, and to administer an oath or oaths to any such prisoner and other persons accordingly, and to cause any officers, clerks, and ministers of any court of law or equity to bring and produce upon oath before him any records, orders, books, papers, or other writings belonging to the said courts, or to any officers within the same as such officers.
6. That if it shall appear to the satisfaction of the court that any such prisoner is an idiot, lunatic, or of unsound mind, although no commission has issued, the court shall appoint a guardian to put in his answer, and discharge the defendant, providing for the costs in any of the ways pointed out by this act, as shall seem just; and if the court shall see fit, the defence may be made by such guardian *in forma pauperis*.
7. That where the defendant has been brought to the bar of the court for his contempt in not answering, and refuses or neglects to answer, (not being idiot, lunatic, or of unsound mind,) the court may, upon motion or petition, of which due notice shall be given personally to the defendant, authorize the plaintiff to amend his bill, without such amendment operating as a discharge of the contempt, or rendering it necessary to proceed with the process of contempt *de novo*; but after such amendment the plaintiff may proceed to take the amended bill *pro confesso*, in the same manner as if it had not been amended: Provided nevertheless, that if the defendant shall be desirous to answer such amended bill, the court shall allow him such time as shall seem just for that purpose; but if he shall not within the time allowed by the court put in a sufficient answer to the amended bill, the process for taking the bill *pro confesso* may be resumed and carried on.
8. That in every case where the defendant has been brought to the bar of the court to answer his contempt for not answering, and shall refuse or neglect to answer within the next twenty-one days, the plaintiff shall be at liberty, with the leave of the court, upon ten days' previous notice to the defendant, after the expiration of such twenty-one days, unless good cause be shown to the contrary, instead of proceeding to have the bill taken *pro confesso*, to put in such an answer to the bill as herein-after is mentioned, in the name of the defendant, without oath or signature, and thereupon the suit shall proceed in the same manner as if such answer were really the answer of the defendant, with which the plaintiff was satisfied; and the costs of the contempt and of putting in such answer may be provided for in like manner as if the defendant himself had put in such answer; and such answer, besides the formal parts thereof shall be to the following effect; that the defendant leaves the plaintiff to make such proofs of the several matters in the bill alleged as

he shall be able or be advised, and submits his interests to the court.

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9. That in any case where, upon the application of the plaintiff, the court shall be satisfied that justice cannot be done to the plaintiff without an answer to the bill or to the interrogatories from the defendant himself, it shall be lawful for the court to order the defendant to remain in custody until answer or further order, but without prejudice to the plaintiff's availing himself of any of the provisions of this act.
10. That where the defendant is in contempt for not appearing or not answering, and in actual custody under process for such contempt, or being already in custody shall be detained by an attachment for such contempt, and shall not, where the contempt is for not appearing, enter an appearance within twenty-one days after he is lodged in gaol or prison, or the attachment is lodged against him, (he being already in prison,) as the case may be, or, where the contempt is for not answering, put in an answer within two calendar months after he is lodged in gaol or prison, or the attachment is lodged against him, he being already in prison, the plaintiff shall (as the case may be), within fourteen days after the period computed from the expiration of such twenty-one days within which he may by the provisions of this act be able to enter such appearance, cause an appearance to be entered for the defendant under the powers of this act, and shall at the expiration of such two calendar months proceed to take the bill *pro confesso*, and shall accordingly obtain an order for taking the same *pro confesso* within six weeks after the period computed from the expiration of such two calendar months within which he may be able to take the same *pro confesso*; or in default of so doing in either of such cases the defendant shall, upon application to the court, be entitled to be discharged out of custody without paying any of the costs of the contempt, unless the court shall, under the power herein-before contained, see good cause to remand and detain the defendant in custody; and this rule shall apply to every defendant in custody before and at the time of the passing of this act who shall not have entered his appearance, and for whom an appearance shall not have been entered, or shall not have answered the bill, and the bill shall not have been taken *pro confesso*, but the twenty-one days and two calendar months respectively to be reckoned from the first day of next term, and the other periods to be altered accordingly in computation; but nothing in this act shall prevent any plaintiff from proceeding to take his bill *pro confesso*, according to the practice existing before the passing of this act, without prejudice to the right of the defendant to be discharged if not effected within the time herein-before limited.
11. That where a defendant is in custody for a contempt in not answering, and shall be able to put in his answer without taking an office copy of the bill, he shall not be compellable to take any such copy, but the proper officer may (if he think the defendant is of sufficient ability to pay for an office copy, and an office copy ought by the practice of the court to be taken out,) require him, before the answer is filed, to make an affidavit denying his ability in consequence of poverty to pay for an office copy of the bill.
12. That when any person shall have been directed by any decree or order to execute any deed or other instrument, or make a surrender or transfer, and shall have refused or neglected to execute such deed or instrument, or to make such surrender or transfer, and shall have been committed to prison under process for such contempt, or, being confined in prison for any other cause, shall have been charged with or detained under process for such contempt, and shall remain in such prison, and the court shall, under the powers of an act passed in the fourth and fifth years of his present

Majesty's reign, have ordered one of the masters to execute any deed or other instrument, surrender, or transfer, for and in the name of such person, in every such case, within ten days after the execution or making of any such deed or other instrument, or surrender or transfer, notice thereof shall be given by the adverse solicitor to the party in whose name the same is executed or made; and such party, as soon as the deed or other instrument, or surrender or transfer, shall be executed, made, levied, or suffered, shall be considered as having cleared his contempt, except as far as regards the payment of the costs of the contempt, and shall be entitled to be discharged therefrom under any of the provisions of this act applicable to his case; and the court shall make such order as shall be just, touching the payment of the costs of or attending any such deed, surrender, instrument, or transfer.

13. That where a person shall be committed for a contempt in not delivering to any person or persons, or depositing in court or elsewhere, as by any order may be directed, books, papers, or any other articles or things, any sequestrator or sequestrators appointed under any commission of sequestration shall have the same power to seize and take such books, papers, writings, or other articles or things, being in the custody or power of the person against whom the sequestration issues, as they would have over his own property; and thereupon such articles or things so seized and taken shall be dealt with by the court as shall be just; and after such seizure it shall be lawful for the court, upon the application of the prisoner, or of any other person in the cause or matter, or upon any report to be made in pursuance of this act, to make such order for the discharge of the prisoner, upon such terms, and, if it shall see fit, making any costs to be costs in the cause, as to the court shall seem proper.
14. That in all cases of contempt, other than and besides those already provided for, where any person or persons is or are or shall at any time hereafter be in prison under or by reason of any commitment or attachment, the court may, upon any such application as last aforesaid, or upon any such report as aforesaid, make such order for the discharge of the prisoner from the contempt, upon any such terms, and making, if the court shall see fit, any costs to be costs in the cause, as to the court shall seem proper, or except as to the costs, for which costs the prisoner shall remain in custody, but entitled to the provisions herein-after contained if he be insolvent.
15. That wherever the court shall, upon any such report as aforesaid, or upon investigation of the case of a prisoner by the court itself, be of opinion that the purposes of justice will not be answered by his remaining any longer in custody, or where it shall appear upon any such report as aforesaid that any person committed for a contempt shall be entitled to his discharge upon applying to the court, but shall omit to make such application, the court may, either with his assent or compulsorily, discharge such person from the contempt and from custody, and pay the costs of the contempt out of any funds belonging to him over which the court may have power, or make them costs in the cause as against him, or may discharge him from the contempt, but leave him in custody for the costs, which may be cleared, if he be insolvent, under the provisions herein-after contained in that behalf.
16. That where any party obstinately retains possession of lands or other real property after a writ of execution of a decree or an order for delivery of possession has been duly served and demand of possession made, and upon an affidavit of such service of the writ of execution, and of such demand made thereunder, and a refusal to comply therewith on the part of the person against whom the writ issued, the party issuing it shall be at liberty, upon an affidavit of service of the writ of execution and demand of possession and refusal, to obtain the usual order of course for the writ of assistance

to issue, and that the intermediate writs of attachment and injunction further commanding the party to deliver possession, or any other writ, shall be unnecessary.

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17. That in order to relieve persons in prison from the expence of taking affidavits or answers, the lord high chancellor do, by one or more commission or commissions under the great seal, upon or in respect of which no fee shall be payable, nominate and appoint the marshal, keeper, or other chief officer of every prison within the city of Dublin, or within two miles thereof, and their deputies, to be masters extraordinary of the high court of chancery, for the purpose of taking and receiving such affidavits and answers as any person or persons within any such prison shall be willing or desirous to make, and for no other purpose; and the person so taking such affidavit or answer shall not in respect thereof be entitled to receive any fee; and the court of exchequer shall in like manner appoint such persons as aforesaid a commissioner or commissioners of the said court for the purposes aforesaid, and no others, and without the right to any fee; and in every case of an answer being sworn in prison a clerk of the deputy keeper of the rolls or of the filazer of the exchequer (as the case may require) shall attend to take and carry back to and from the prison the answer, and shall in respect thereof be entitled to.

XIII. That the discharge of any prisoner adjudicated upon under the authority of any act now in force for the relief of insolvent debtors in Ireland, or any act which may hereafter be passed for the relief of insolvent debtors, shall and may extend to all process issuing from any court of equity for any contempt of such court for nonpayment of rent or money, or of costs, charges, or expences in any such court, including the costs of any commitment or attachment from which the party shall have been discharged so far as regards the contempt, but shall have been left liable to the costs; and that in such case the said discharge shall be deemed to extend to all costs which such prisoner shall be liable to pay in consequence or by reason of such contempt, or on purging the same; and that every discharge, so adjudicated as aforesaid, as to any debt or damages of any creditor of such prisoner, shall be deemed to extend also to all costs incurred by such creditor, before the filing of such prisoner's schedule, in any action or suit brought by such creditor against such prisoner for the purpose, for the recovery of the same; and that all persons as to whose demands for any such costs, money, or expences any such person shall be so adjudged to be discharged, shall be deemed and taken to be creditors of such prisoner in respect thereof, and entitled to the benefits of all the provisions made for creditors by the said act or any future act, subject nevertheless to such ascertaining of the amount of the said demands as may be had by taxation or otherwise, and to such examination thereof as is in the said last-mentioned act or as shall be in any future act provided in respect of all claim to a dividend of such insolvent's estate and effects.

Discharge may extend to process for contempt in non-payment of money, and to costs incurred by creditor, but subject to taxation.

XIV. That where the process of contempt is for the nonperformance of an act, for example, the not answering a plaintiff's bill, and the bill in equity to which the insolvent is a party is taken *pro confesso*, and he has not paid the costs of the contempt, or the insolvent has fully answered the plaintiff's bill or interrogatories, or otherwise cleared his contempt except as far as regards the payment of the costs, or it has become in event unnecessary for him to do the act for the nonperformance of which he was committed or attached, the court of equity in which the suit is depending shall, upon the application of the party in contempt, discharge him from the same, except as to the costs thereof for which he shall remain in custody, and such costs shall be deemed within the provision lastly herein-before contained, and he shall be dischargeable therefrom, and from the process of contempt, in like manner as if the process of contempt were for nonpayment of money or costs;

When process of contempt is for nonperformance of an act.

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Powers given by this act to the court of chancery to extend to the lord keeper and master of the rolls.

Foregoing rules to be adopted by the court of exchequer.

Powers contained in such rules may be exercised by the court of exchequer.

Rule for the interpretation of this act.

This act not to annul provisions of 7 G. 2, (1.)
2 W. 4, c. 33.
4 & 6 W. 4, c. 82.
4 & 5 W. 4, c. 78.

provided that this order or regulation shall not weaken any of the other powers by this act given, nor shall any thing herein contained lessen the operation of the said act for the relief of insolvent debtors.

XV. That the powers and authorities given by this act to the court of chancery, or to the lord chancellor of Ireland, shall and may be exercised as well by such lord chancellor as by (and they are hereby given to) the lord keeper or commissioners of the great seal of Ireland for the time being, and to the master of the rolls; but the reports of the marshal of the marshalsea, and of the masters visiting there, shall be made to the lord chancellor, lord keeper, or lords commissioners only, who alone are to make orders thereupon for discharge or relief of prisoners.

XVI. That the rules herein-before directed to be adopted by the court of chancery shall be adopted by the court of exchequer, which court shall, for the purposes of this act, draw upon the suitors fund of that court.

XVII. That the powers and authorities contained in such last-mentioned rules, and given by this act to the lord chancellor, shall and may be exercised in like manner by and are hereby given to his Majesty's court of exchequer, and may be exercised by the said court, or by the lord chief baron thereof; but such periodical visits only to be made to the said marshalsea, in regard to prisoners for contempt of the said court, as the lord chief baron shall direct, and by such officer or officers of the court as he shall nominate.

XVIII. That wherever this act, in describing or referring to any person, or any conveyance, transfer, matter, or thing, uses the word importing the singular number or the masculine gender only, the same shall be understood to include and shall be applied to several persons as well as one person, and females as well as males, and bodies corporate as well as individuals, and several conveyances, transfers, matters, or things respectively, as well as one conveyance, transfer, matter, or thing respectively, unless there be something in the subject or context repugnant to such construction.

XIX. Provided always, that nothing in this act contained shall annul or vary the provisions of an act of the seventh year of George the second, relating to Ireland, intituled *An Act for the Relief of Mortgagees, and for making the Process in Courts of Equity more effectual against Mortgagees who abscond and cannot be served therewith, and against Persons who being served refuse to appear; and also for better regulating the payment of the Fees of Attornies and Solicitors*; or of an act of the second year of his present Majesty, intituled *An Act to effectuate the service of Process issuing from the Courts of Chancery and Exchequer in England and Ireland respectively*; or of an act of the fourth and fifth of his present Majesty, intituled *An Act to amend and extend an Act of the second year of his present Majesty, to effectuate the Service of Process issuing from the Courts of Chancery and Exchequer in England and Ireland*; or of an act of the fourth and fifth years of his present Majesty, intituled *An Act for the Amendment of the Proceedings and Practice of the High Court of Chancery in Ireland*; or any of them, except so far as they are inconsistent with any of the provisions of this act.

[No. XIII.] 5 & 6 W. IV. c. 47.—An Act to repeal so much of an Act passed in the Third and Fourth Years of His present Majesty, as relates to the Amount of the Salary granted to the Clerk of the Crown in Chancery; and to make other Provisions in relation to the said Office.

[31st August 1835.]

3 & 4 W. 4,
c. 84.

WHEREAS by an act passed in the third and fourth years of the reign of his present Majesty, intituled *An Act to provide for the Performance of the Duties of certain Offices connected with the Court of Chancery*

which have been abolished, the salary of the clerk of the crown in chancery was fixed at eight hundred pounds per annum, in full satisfaction for the duties of the said office, and of all expences incident to the performance thereof: And whereas the expences of the said office vary, and in some years may be so great as to leave a very inadequate sum for the salary of the clerk of the crown; and it is expedient to make provision for securing to that officer a proper remuneration for the responsible duties performed by him, and for the payment of the reasonable and necessary expences of his offices: Be it therefore enacted, &c., That so much of the said recited act by which the yearly salary of eight hundred pounds is granted to the clerk of the crown in chancery, in full satisfaction for the duties of the said office, and of all expences incident to the performance thereof, shall be and the same is hereby repealed; and instead and in lieu thereof there shall be paid to the said clerk of the crown for the time being the yearly salary of five hundred pounds, free and clear from all deductions on account of the expences incident to the performance of the duties of the said office; and the said salary of five hundred pounds shall be issued and payable out of and be charged and chargeable upon the same fund as the before-mentioned yearly salary of eight hundred pounds was directed to be issued out of and made chargeable upon by the said recited act.

No. XIII.
5 & 6 W. 4,
c. 47.

Repealing so much of recited act as grants a salary of 800*l.* to the clerk of the crown, and granting a clear salary of 500*l.* in lieu thereof.

II. That it shall be lawful for the lord high treasurer, or any three or more of the commissioners of his Majesty's treasury, for the time being, and he and they is and are hereby required, by warrant under his or their hands, to allow to the said clerk of the crown, for his clerks, and for the other incidental and necessary expences of his office, such sum per annum as he or they shall deem reasonable and proper; and the sum so allowed as aforesaid shall be paid and payable out of and be charged and chargeable upon the fees and emoluments taken and received in the office of the said clerk of the crown; and the residue only of the said fees and emoluments, after payment of the said expences, shall be paid and payable into the receipt of his Majesty's exchequer, and be carried to and made part of the consolidated fund of the united kingdom of Great Britain and Ireland, any thing in the said recited act to the contrary notwithstanding.

The treasury may allow the expences of the office of the clerk of the crown, and direct the same to be paid out of the fees.

III. Provided always, that it shall be lawful for the said lord high treasurer, or any three or more of the commissioners of his Majesty's treasury, from time to time to reduce or increase the amount to be allowed to the said clerk of the crown for such expences of his office as occasion may be or require.

Treasury may vary the allowance for expences.

IV. That the said yearly salary of five hundred pounds hereby granted to the clerk of the crown in chancery, together with such annual sum as shall be allowed by the said lord high treasurer or commissioners of his Majesty's treasury for the clerks and other incidental expences of the said office as aforesaid, shall commence on and be payable from the fifteenth day of November one thousand eight hundred and thirty-four, when the present clerk of the crown was appointed, and shall from time to time be paid and payable, charged and chargeable quarterly on the thirty-first day of March, the thirtieth day of June, the thirtieth day of September, and the thirty-first day of December in each year.

Salary and sum allowed for expences to commence and be payable from the 15th November 1834, and be paid quarterly.

V. That it shall and may be lawful for the lord high treasurer, or any three or more of the commissioners of his Majesty's treasury, together with the lord chancellor, or the lord keeper, or lords commissioners for the custody of the great seal of Great Britain, whenever it shall appear to them expedient so to do, to alter and vary the scale of fees to be demanded and taken by the clerk of the crown in chancery; and such scale of fees, when so altered and settled, shall be deemed to be the lawful fees appertaining and belonging to the office of the clerk of the crown, and shall and may be demanded and taken accordingly; and the whole of the fees and emoluments which have been received by the present clerk of the crown since the date of his appointment, and which may hereafter be received in the said office, shall be accounted for by

The treasury and the lord chancellor may alter and vary the scale of fees whenever they shall think it expedient.

Fees to be accounted for as the treasury may direct.

No. XIII.
5 & 6 W. 4,
c. 47.

the said present clerk of the crown, and by his successors, to the lord high treasurer or commissioners of his Majesty's treasury for the time being, at such times and in such form and manner as he or they shall think fit to direct; and the amount of such fees and emoluments, after deducting from and paying thereout the necessary expences of the said office so sanctioned and allowed as aforesaid, shall be paid by the clerk of the crown for the time being into the receipt of his Majesty's exchequer within ten days from the time of rendering the account thereof as aforesaid; and such amount shall be carried to and made part of the consolidated fund of the united kingdom of Great Britain and Ireland.

[No. XIV.] 5 & 6 W. IV. c. 82.—An Act to abolish certain Offices connected with Fines and Recoveries, and the Cursitors in the Court of Chancery, and to make Provision for the Abolition of certain Offices in the Superior Courts of Common Law in England.

[For this act, see *ante*, Part IV., Class I., p. 414.]

PART IV.

CLASS XXVI.

CORONER.

[It has been for some time in contemplation to revise the laws relating to coroners; but such revision has not as yet been effected.]

PART IV.

CLASS XXVII.

WARDEN.

[There has been no recent statute relating to this class.]

PART IV.
CLASS XXVIII.

BANKRUPTS.

[No. I.] 1 & 2 W. IV. c. 56.—An Act to establish a Court
in Bankruptcy (1). [20th October 1831.]

WHEREAS an act was passed in the sixth year of the reign of his late Majesty king George the fourth, intituled *An Act to amend the* 6 G. 4, c. 16.

Laws relating to Bankrupts: And whereas it is expedient to provide means of administering and distributing the estate and effects of bankrupts, and of determining the questions which from time to time arise touching the same, other than are provided by the said act: To the end that the rights, as well of the bankrupts themselves as of their creditors, may be enforced with little expence, delay, and uncertainty as possible, be it enacted, &c., That it shall and may be lawful for his Majesty, his heirs and successors, by charter or letters patent under the great seal of the united kingdom of Great Britain and Ireland, to erect and establish a court of judicature which shall be called "The Court of Bankruptcy," and by commission under the great seal to appoint one person, being a serjeant or a barrister at law of not less than ten years standing, to be the chief judge of the said court, and three persons, being serjeants or barristers at law of not less than ten years standing at the bar, or of five years standing at the bar, having previously practised five years as a special pleader below the bar, to be other judges of the said court, and six persons, being barristers at law of not less than seven years standing at the bar, or of four years standing at the bar, having previously practised as a special pleader for three years below the bar, to be called commissioners of the said court, and from time to time to supply any vacancy in the number of the said judges and commissioners; and the same court shall be and constitute a court of law and equity, and shall, together with every judge and commissioner thereof, have, use, and exercise all the rights, incidents, and privileges of a court of record or judge of a court of record, and all other rights, incidents, and privileges, as fully to all intents and purposes as the same are used, exercised, and enjoyed by any of his Majesty's courts of law or judges at Westminster.

Establishment
of a court of
bankruptcy.

II. That the said judges or any three of them shall and may form a court of review, which shall always sit in public, save and except as may be otherwise directed by this act, or by the rules and regulations to be made in pursuance hereof, and shall have superintendence and controul in all matters of bankruptcy, and shall also have power, jurisdiction, and authority to hear and determine, order, and allow all such matters in bankruptcy as now usually are or lawfully may be brought, by petition or otherwise, before the lord chancellor, whether such matters may have arisen in the said court of bankruptcy or elsewhere, except as is herein otherwise provided, and also to investigate, examine, hear, and determine all such other matters within the jurisdiction of the said court of bankruptcy as are by this act or may be by the said rules and regulations assigned and referred to the said court of review.

The court of
review.

III. That all such matters to be heard and determined in the said court of review shall be brought on by way of petition, motion, or special case, according to the rules and regulations to be established as herein-after provided, subject to an appeal to the lord chancellor on matters of law and equity, or on the refusal or admission of evidence

Mode of appli-
cation to court
of review.

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1 & 2 W. 4,
c. 56.

Mode of appeal
to the lord
chancellor.

Court of review
may direct
issues.

Costs in the
court of review.

Subdivision
courts.

*The powers of
commissioners.

Oath of judges
and commis-
sioners.

only; and in all cases of appeal to the lord chancellor by virtue of this act such appeal shall be on a special case, and in no other mode whatsoever, except the lord chancellor shall in any case otherwise direct; which special case shall be approved and certified by one of the judges of the said court of review in matters arising in the said court, and by the judge trying the issue in matters arising out of the trial of issues; and the determination of such judge on the settlement of such case shall be final and conclusive: Provided always, That all appeals to the lord chancellor by virtue of this act shall be heard by the lord chancellor only, and not by any other judge of the high court of chancery.

IV. That it shall be lawful for the said court of review to direct any issue of fact arising therein to be tried by a jury before one of the judges thereof, or before a judge of assize, and to issue process to compel the attendance of jurors and witnesses, and to enforce the orders and decrees of the said court of review, and to that end to exercise all the powers vested for such purposes in any of his Majesty's courts of record at Westminster.

V. That all costs of suit between party and party in the said court of review shall be in the discretion of the court, and shall be taxed by one of the masters of the high court of chancery.

VI. That the said six commissioners may be formed into two subdivision courts, consisting of three commissioners for each court, for hearing and determining the matters and things and making the examinations herein-after referred thereto; and all references or adjournments by a single commissioner to a subdivision court, by virtue of this act, shall be to the subdivision court to which he belongs, unless the said commissioner, in case of the sickness of some one or more of the commissioners of such subdivision court, or other sufficient cause, shall think fit otherwise to direct; and the said subdivision courts may sit either in public or private, as they shall see fit, unless where it shall be otherwise provided by this act, or by the rules to be made as herein-after mentioned.

VII. That in every bankruptcy prosecuted in the said court of bankruptcy it shall and may be lawful for any one or more of the said six commissioners to have, perform, and execute all the powers, duties, and authorities by any act or acts of parliament now in force vested in commissioners of bankruptcy, in all respects as if they or any one or more of them were in every instance specially authorized and appointed for the purpose by a separate commission under the great seal of the united kingdom of Great Britain and Ireland; provided always, That no single commissioner shall have power to commit any bankrupt or other person examined before him otherwise than to the care and custody of a messenger or other officer of the said court, to be by him detained in his custody, and brought up before a subdivision court, or the court of review within three days after such commitment, for which purpose one of such courts shall be forthwith assembled, and to which court such examination shall be adjourned.

VIII. That in lieu of the oath directed to be taken by commissioners under the said recited act, every judge and commissioner to be appointed by virtue of this act shall, before he shall be capable of acting in the execution of any of the powers and authorities given by this act, take an oath in the presence of the lord chancellor to the effect following; (that is to say,)

' I A. B. do swear, That I will faithfully, impartially, and honestly, according to the best of my skill and knowledge, execute the several powers and trusts reposed in me [as the chief judge or one of the judges, or one of the commissioners, as the case may be, of the court of bankruptcy,] and that without favour or affection, prejudice or malice.
So held me GOD.'

And any judge or commissioner having once taken the said oath shall

not again be required to take the same so long as he shall continue in office.

IX. That it shall be lawful for his Majesty, his heirs and successors, under his or their royal sign manual, from time to time to appoint two registrars, and any number not exceeding eight deputy registrars to act as such in the said court of bankruptcy, and to attend upon and assist the said judges and commissioners; which officers so to be from time to time appointed shall hold their respective offices during good behaviour, notwithstanding the demise of his Majesty or any of his heirs or successors: Provided always, That it shall be lawful for his Majesty, his heirs and successors, to remove any of such officers upon a certificate from the said court of review, or one of the subdivision courts, of some sufficient reason, to be named therein, for such removal.

No. I.
1 & 2 W. 4,
c. 56.

Appointment of
registrars and
deputy registra-
rars.

X. That all attorneys and solicitors of any of the superior courts of law or equity at Westminster may be admitted and have their names enrolled in the said court of bankruptcy, without any fee or charge other than such as shall be allowed by this act, or any rule or regulation to be made in pursuance thereof, and may appear and plead in any proceedings in the said court without being required to employ counsel, (except in proceedings before the said court of review, and upon the trial of issues by jury); and in case any person, not being an attorney or solicitor duly admitted as aforesaid, shall practise in the said court of bankruptcy as an attorney or solicitor, he shall be deemed guilty of a contempt of the said court, and be liable to all the penalties incident thereto, on complaint thereof made to the court of review; and that all the laws and statutes now in force concerning attorneys and solicitors shall extend to attorneys and solicitors practising in the said court of bankruptcy.

All attorneys
and solicitors
may practise in
this court.

XI. That the judges of the said court of review, with the consent of the lord chancellor, shall have power from time to time to make general rules and orders for regulating the practice of the said court of bankruptcy, the sittings of the judges and commissioners thereof, and the conduct of the other officers and of the practitioners therein.

Judges to make
rules for regul-
ating the pro-
ceedings of the
court.

XII. That in every case wherein the lord chancellor, by virtue of any former act, hath power to issue a commission of bankrupt under the great seal, it shall and may be lawful for him, and also for the master of the rolls, the vice chancellor, and each of the masters of the court of chancery acting under any appointment by the lord chancellor to be given for that purpose, on petition made to the lord chancellor against any trader having committed any act of bankruptcy by any creditor of such trader, and upon his filing such affidavit and giving such bond as is by law required, to issue his fiat under his hand in lieu of such commission, thereby authorizing such creditor to prosecute his said complaint in the said court of bankruptcy, or to prosecute the same elsewhere before such discreet and proper persons as the lord chancellor, or as the master of the rolls, vice chancellor, or one of the masters of the court of chancery, acting as aforesaid, by such fiat may think fit to nominate and appoint; and that the persons so appointed shall thereby have the like power and authority to all intents and purposes as if they were assigned and appointed special commissioners by virtue of a commission under the great seal. (1)

The lord chan-
cellor to issue
a fiat in lieu of
a commission

XIII. That every such fiat, prosecuted in the said court of bankruptcy, shall be filed and entered of record in the said court, and shall thenceforth be a record of the said court, and it shall thereupon be lawful for any one or more of the commissioners thereof to proceed thereon in all respects as commissioners acting in the execution of a commission

Fiats to be filed
in court of
bankruptcy.

(1) Where a joint fiat issues against two of three partners, and afterwards commissioners are appointed in pursuance of this section, a separate fiat against the third partner cannot be directed to the old commissioners. *Ex parte Beagus*, 1 Mont. & A. 443.

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1 & 2 W. 4,
c. 56.

Appointment
of country
commissioners,
and fiats to
them.

Oath of com-
missioners in
the country.

Provisions of
former acts
made applica-
ble to this act
and to fiats.

Manner of pro-
ceeding in case
the bankrupt
shall dispute
the adjudica-
tion.

of bankrupt, save and except as such proceeding may be altered by virtue of this act.

XIV. That the judges who go the several circuits in England and Wales may be directed by the lord chancellor from time to time to return to him the names of such number as he shall think fit to require of barristers, solicitors, and attorneys practising in the counties to the said circuits belonging, and upon such persons being returned, and approved by the lord chancellor the fiat or fiats aforesaid not directed to the court of bankruptcy shall be directed to some one or more of such persons in rotation to act as commissioners of bankrupt, according to the districts or places for which such persons shall be so returned, and to no other person than such as shall be included in such return: Provided always, That it shall be lawful for the lord chancellor at any time to remove any person from the lists to be so returned, for such cause as to him shall seem fit.

XV. That in lieu of the oath required by the said recited act to be taken by commissioners of bankrupt, all persons acting as such commissioners elsewhere than in the said court of bankruptcy shall take an oath to the effect following:

' I A. B. do swear, That I will faithfully, impartially, and honestly, according to the best of my skill and knowledge, execute the several powers and trusts reposed in me as a commissioner in a prosecution of bankruptcy against and that without favour or affection, prejudice or malice.
So help me GOD.'

XVI. That all the laws and statutes, rules and orders, now in force relating to bankrupts, or to commissioners of bankrupt, or to proceedings under such commissions, or to the subject matters of such proceedings, or to the persons concerned therein or in any way affected thereby, shall in like manner extend and be construed to extend in every respect, as far as the same may be applicable, to this act, and to fiats issued in pursuance thereof, and to all proceedings under the same, and to all the subject matters of such proceedings, and to all persons concerned therein or in any way affected thereby, to all intents and purposes whatsoever, as if every such fiat were a commission of bankrupt under the great seal of the united kingdom of Great Britain and Ireland, save and except as may be otherwise directed by this act.

XVII. That if any trader adjudged bankrupt shall be minded to dispute such adjudication, and shall present a petition praying the reversal thereof to the said court of review, such petition to be presented within two calendar months (1) from the date of such adjudication if such trader shall be then residing within the united kingdom, or within three calendar months from the date aforesaid if then residing in any other part of Europe, or within one year from the date aforesaid if then residing elsewhere, or within such other time as the said court shall allow, (not exceeding one year, to be computed from the date aforesaid,) such court of review shall proceed to hear and decide on the said petition; or, at the option of the said bankrupt, and on his finding such security for costs (if the said court shall think fit to require any security) as by the said court shall be approved, shall direct an issue to try any matter of fact affecting the validity of such adjudication by a jury, to be duly impanelled and sworn for that purpose, before the chief judge or any one or more of the other judges of the court of bankruptcy; and if the verdict on such issue shall not be set aside, on application made to the said court of review, within one month after the said trial, or if the adjudication of the commissioner shall not be set aside by the said court

(1) This section does not prevent a bankrupt from applying to supersede, though two months have elapsed from the date of the fiat. *Ex parte, Palmer & Montague*, 497.

of review on the petition aforesaid, such verdict or such adjudication of the said commissioner shall in all cases, as against the said bankrupt, and also as against the petitioning creditor, and as against any assignee to be chosen of any such bankrupt's estate and effects, and as against all persons claiming under the said assignees, and all persons indebted to the bankrupt's estate, be conclusive evidence that the party was or was not a bankrupt at the date of such adjudication, any other act, debt, or trading than the act, debt, or trading proved at such trial notwithstanding: Providing always, That an appeal shall be to the lord chancellor from the decision of the said court of review, upon matter of law or equity, or on the refusal or admission of evidence only.

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c. 56.

XVIII. Provided always, That after any such issue shall have been tried as aforesaid, it shall and may be lawful for the lord chancellor, on petition to him, to be presented within one calendar month after such verdict, and upon notice thereof to the bankrupt, upon special circumstances, to be submitted to the said lord chancellor, to order that another fiat do issue at the instance of any other than the former petitioning creditor against the said bankrupt, and that such fiat shall and may be supported by any debt, trading, or act of bankruptcy other than those given in evidence on the trial of such issue. Fiat to issue on petition to lord chancellor.

XIX. That it shall be lawful for the lord chancellor, upon the reversal of any adjudication of bankruptcy, or for such other cause as he shall think fit, to order that any fiat issued by virtue of this act shall be rescinded or annulled; and such order shall have all the force and effect of a writ of supersedeas of a commission according to the existing laws and practice in bankruptcy. Power to annul fiat.

XX. That it shall be lawful for any commissioner who shall make any adjudication of bankruptcy to appoint two or more public meetings, instead of the three meetings directed by the said recited act, for the bankrupt to surrender and conform, the last of which said meetings shall be on the forty-second day after the publication of his bankruptcy in the *Gazette*; and the choice of assignees shall take place at the first of such two meetings (1). Meetings of creditors.

XXI. That in all cases in which power is by this act given to any one of the said commissioners to act, such power shall and may in like manner be exercised by the said chief judge, or by any one of the said other judges, as occasion may require; and where any such judge so acting would, in case he were a commissioner, make any reference or adjournment to a subdivision court, such reference or adjournment shall be made by such judge to the court of review instead of to a subdivision court. Powers given to the commissioners may be exercised by the judges.

XXII. That a number of persons not exceeding thirty, being merchants, brokers, or accountants, or persons who are or have been engaged in trade in the cities of London or Westminster or the parts adjacent, shall be chosen by the lord chancellor to act as official assignees in all bankruptcies prosecuted in the said court of bankruptcy; one of which said official assignees shall in all cases be an assignee of each bankrupt's estate and effects, together with the assignee or assignees to be chosen by the creditors; such official assignee to give such security, to be subject to such rules, to be selected for such estate, and to act in such manner as the said chief and other judges, with the consent of the lord chancellor, shall from time to time direct; and all the personal estate and effects, and the rents and profits of the real estate, and the proceeds of sale of all the estate and effects, real and personal, of the bankrupt, shall in every case be possessed and received by such official Appointment of official assignees.
Their duty.

(1) The commissioner appointed two meetings under this section, at the first of which assignees were chosen. Held, that the fiat could not be annulled with the consent of the creditors under the 6 G. 4, c. 16, s. 113, 134, till after the second meeting, as other creditors might then come in and prove. 2 Mont. & A. 209.

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c. 56.

assignee alone, save where it shall be otherwise directed by the said court of bankruptcy or any judge or commissioner thereof; and all stock in the public funds or of any public company, and all monies, exchequer bills, India bonds, or other public securities, and all bills, notes, and other negotiable instruments, shall be forthwith transferred, delivered, and paid by such official assignee into the bank of England, to the credit of the accountant general of the high court of chancery, to be subject to such order, rule, and regulation, for the keeping of the account of the said monies and other effects, and for the payment and delivery in, investment, and payment and delivery out of the same, as the lord chancellor, or the said court of review, or any judge of the said court of bankruptcy, if authorized so to do by any general order of the same court, shall direct; and if any such assignee shall neglect to make such transfer, delivery, or payment, every such assignee shall be liable to be charged in the same manner as by the said recited act is provided in cases of neglect by assignees to invest money in the purchase of exchequer bills, when directed so to do: Provided always, That until assignees shall be chosen by the creditors of each bankrupt, such official assignee so to be appointed to act with the assignees to be chosen by the creditors shall be enabled to act, and shall be deemed to be, to all intents and purposes whatsoever, a sole assignee of each bankrupt's estates and effects.

Proviso restricting the authority of official assignees.

XXIII. Provided always, That nothing herein contained shall extend to authorize any such official assignee to interfere with the assignees chosen by the creditors in the appointment or removal of a solicitor or attorney, or in directing the time and manner of effecting any sale of the bankrupt's estates or effects.

For filling up vacancies in the number of assignees.

XXIV. That it shall be lawful for the lord chancellor, from time to time as any vacancy may occur in the said before-mentioned number of official assignees, to appoint some other such person as aforesaid to fill any vacancy so occurring; and in case of the death or removal of any official assignee who shall have been appointed to act in any bankruptcy, it shall be lawful for the said court of bankruptcy, subject to any rules to be made by virtue of this act, to appoint another official assignee of the number hereby prescribed to act in the same bankruptcy in the place of the assignee who shall have so become dead or been removed.

Personal estate to vest in assignees.

XXV. That when any person hath been adjudged a bankrupt, all his personal estate and effects, present and future, which by the laws now in force may be assigned by commissioners acting in the execution of a commission against such bankrupt, shall become absolutely vested in and transferred to the assignees or assignee for the time being, by virtue of their appointment, without any deed of assignment for that purpose, as fully to all intents as if such estate and effects were assigned by deed to such assignees and the survivor of them; and as often as any such assignees shall die, or be lawfully removed, and a new assignee duly appointed, all such personal estate as was then vested in such deceased or removed assignee shall by virtue of such appointment vest in the new assignee, either alone or jointly with the existing assignees, as the case may require, without any deed of assignment for that purpose.

Real estate how to vest.

XXVI. That where any person shall have been adjudged a bankrupt, all such present and future real estate of such bankrupt, whether in the united kingdom of Great Britain and Ireland, or in any of the dominions, plantations, or colonies belonging to his Majesty, as by the said recited act is directed to be conveyed by the commissioners to the assignees, shall vest in such bankrupt's assignee or assignees for the time being, by virtue of his or their appointment, without any deed of conveyance for that purpose; and as often as any such assignee or assignees shall die, or be lawfully removed or displaced, and a new assignee or assignees shall be duly appointed, such of the aforesaid real estate as shall remain unsold or unconveyed shall by virtue of such appointment vest in the new assignee or assignees, either alone or jointly with the

existing assignees, as the case may require, without any conveyance for that purpose.

XXVII. Provided always, That where according to any laws now in force any conveyance or assignment of any real or personal property of a bankrupt would require to be registered, enrolled, or recorded in any registry office in England, Wales, or Ireland, or in any registry office, court, or other place in Scotland, or any of the dominions, plantations, or colonies belonging to his Majesty, then, in every such case, such certificate as hereafter is described of the appointment of an assignee or assignees shall be registered in the registry office, court, or place wherein such conveyance or assignment as last aforesaid would require to be registered, enrolled, or recorded; and the registry hereby directed shall have the like effect to all intents and purposes as the registry, enrolment, or recording of such conveyance or assignment as last aforesaid would have had; and the title of any purchaser of any such property as last aforesaid, for valuable consideration, without notice of the bankruptcy, who shall have duly registered, enrolled, or recorded his purchase deed previous to the registry hereby directed, shall not be invalidated by reason of such appointment of an assignee or assignees as aforesaid, or the vesting of such property in him or them consequent thereupon, unless the certificate of such appointment shall be registered as aforesaid within the times following; (that is to say,) as regards the united kingdom of Great Britain and Ireland, within two months from the date of such appointment; and as regards all other places, within twelve months from the date thereof.

XXVIII. That the said judges of the said court of bankruptcy shall cause to be made a seal of the said court, in such form as they shall think fit, and shall cause to be sealed therewith all such proceedings, documents, and copies as by the law now in being, or by this act, or by any rule or order of the said court, shall be required to be so sealed.

XXIX. That a certificate of the appointment of such assignees, purporting to be under the seal of the said court of bankruptcy, shall be received as evidence of such appointment, in all courts and places whatsoever, without further proof.

XXX. That any one of the said six commissioners, if he think fit, may adjourn the examination of any bankrupt or other person to be taken either before a subdivision court or the court of review, and may likewise adjourn the examination of a proof of debt to be heard before a subdivision court; which said court shall proceed with such last-mentioned examination, and finally, and without any appeal, except upon matter of law or equity, or of the refusal or the admission of evidence, shall determine upon such proof of debts: Provided always, That in case, before the said commissioner or subdivision court, both parties, the assignees or the major part of them, and the creditor, consent to have the validity of any debt in dispute tried by a jury, an issue shall be prepared under the direction of the said commissioner or subdivision court, and sent for trial before the chief judge or one or more of the other judges; and if one party only applies for such issue, the said commissioner or subdivision court shall decide whether or not such trial shall be had, subject to an appeal as to such decision to the court of review. (1)

XXXI. That if such commissioner or subdivision court shall determine any point of law or matter of equity, or decide on the refusal or admission of evidence in the case of any disputed debt, such matter may be brought under review of the court of review by the party who thinks himself aggrieved, and the proof of the debt shall be suspended under review or appealed against.

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c. 56.

In cases where a conveyance of the property of a bankrupt would require to be registered, the certificate of appointment of the assignee shall be registered.

Seal of the court.

Evidence of appointment of assignees.

Adjournment of examinations to subdivision courts.

Trial of disputed debts.

Certain decisions of commissioners may be brought under review or appealed against.

(1) The court of review can reverse the decision of a subdivision court on a matter of fact as to expunging a proof; this section applying only to the admission or rejection of proofs. *Ex parte Baldwin*, 1 Mont. & A. 615.

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Determination
of court of re-
view in favour
of appeals
touching such
decisions to be
final, unless
appealed
against within
one month.

New trial of
issues.

Proof of debts
by affidavits.

Assignees may
appoint the
bankrupt to su-
perintend the
management of
the estate.

Removal of
assignees.

Appeal to the
house of lords.

until such appeal shall be disposed of, and a sum not exceeding any expected dividend or dividends on the debt in dispute in such proof may be set apart in the hands of the said accountant general until such decision be made; and in like manner there may be an appeal on the like matter of law or equity from the court of review to the lord chancellor.

XXXII. That if the court of review shall determine in any appeal touching any decision in matter of law upon the whole merits of any proof of debt, then the order of the said court shall finally determine the question as to the said proof, unless an appeal to the lord chancellor be lodged within one month from such determination; and in case of such an appeal, the determination of the lord chancellor thereupon shall in like manner be final touching such proof; but if the appeal, either to the court of review or the lord chancellor, shall be allowed in relation to the admission or refusal of evidence, then and in that case the proof of the debt shall be again heard by the commissioner or subdivision court, and the said evidence shall be then admitted or rejected accordingly.

XXXIII. That after any issue by this act authorized shall be tried, a new trial may be moved in the court of review, which new trial shall be granted or refused according to the rules of the common law and the practice of the courts of Westminster in granting or refusing new trials.

XXXIV. That it shall be lawful for any creditor to make proof of his debt by affidavit, sworn before one of the said judges or commissioners, or before a master in chancery, ordinary or extraordinary, or, if such creditor shall live out of England, by affidavit sworn before a magistrate where such creditor shall be residing, and attested by a notary public, British minister or consul; subject nevertheless to such rules and orders touching the personal attendance of any creditor to make such proof according to the existing laws and practice in bankruptcy as the said court of review, with the consent of the lord chancellor, shall from time to time make and direct.

XXXV. That in every case the assignees may, with the approbation of the proper subdivision court, appoint the bankrupt himself to superintend the management of the estate, or to carry on the trade for behoof of the creditors, and in all or any other respects they may think fit to aid them in administering the bankrupt's estate and effects, in such manner and on such terms as they may think best for the benefit of the persons interested in the estate.

XXXVI. That the court of review shall have power to remove any assignee of any estate, and the order of such court thereupon shall be final and conclusive to all intents and purposes, and not subject to any review by the lord chancellor or otherwise (1).

XXXVII. That in case the lord chancellor shall deem any matter of law or equity brought before him by way of appeal from the court of review to be of sufficient difficulty or importance to require the decision of the house of lords, or in case both parties in any proceeding before the court of review shall desire that any such matter may be determined in the first instance by the house of lords, and not by the lord chancellor, then and in such case the lord chancellor or the court of review may direct the whole facts whereupon such question of law or equity shall arise to be stated in the form of a petition of appeal to the house of lords, and the party appealing may carry such appeal to the house of lords in like manner as other appeals are preferred to that house: Provided always, that the cases to be lodged by the parties in the house of lords shall be confined in matter of fact, in cases of appeal from the

(1) Where a commission has been issued prior to this statute, and an assignee has been removed subsequently, it is not necessary that there should be a new assignment, or that the prior assignment should be vacated. *Smith v. De Tastet*, 4 *Deacon & Ch.* 358.

lord chancellor, to setting forth the special case brought up to the lord chancellor from the court of review, and in cases of appeal from the said court of review, to setting forth a special case, to be approved and certified in manner herein-before provided touching appeals to the lord chancellor, and to such arguments on the point of law as the parties may be advised to state.

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1 & 1 W. 4,
c. 56.

XXXVIII. That the said judges and commissioners of the said court of bankruptcy shall in all matters within their respective jurisdictions have power to take the whole or any part of the evidence either *viva voce* on oath, or upon affidavits to be sworn before one of the said judges or commissioners, or a master, ordinary or extraordinary, in chancery, as the said court may in any case direct, or as the lord chancellor may from time to time prescribe, by any general rule to be made by virtue of this act.

The court may take evidence *viva voce*, or upon affidavit before a judge or a master.

XXXIX. That all power, jurisdiction, and authority of the commissioners named in any commission of bankrupt depending in the court of commissioners of bankrupts in the city of London shall cease and determine, and that every such commission shall thereupon be removed into the said court of bankruptcy, and that all further proceeding thereon shall be thenceforth prosecuted and carried on in like manner as if they had been originally commenced therein by virtue of a fiat under the hand of the lord chancellor, issued pursuant to this act, save as may be otherwise directed by this act.

Commissions depending in London to be removed into the court of bankruptcy.

XL. That it shall be lawful for each commissioner of the said court who shall thenceforth act in such commission, at his discretion, to appoint some one of the aforesaid official assignees to act with the existing assignees, if any, under such commissions, and to direct the existing assignees to pay and deliver over to such official assignees all monies, books, papers, and effects whatsoever in their possession or custody as such assignees; and all the real and personal estate of the bankrupt under such commission shall immediately on such appointment vest in such official assignee jointly with the existing assignees, if any, in like manner as if the proceedings in the said bankruptcy had originally been commenced by virtue of this act, without prejudice to any action or suit commenced or any contract entered into by the existing assignees at the time of the passing of this act. (1)

Power to appoint official assignees to act with the existing assignees under such commissions, and to whom the latter shall deliver over effects.

XLI. That wherever this statute hath used words importing the singular number or the masculine gender only, yet it shall be understood to include several matters as well as one matter, and several persons as well as one person, and females as well as males, and bodies corporate as well as individuals, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such construction; and that wherever the words lord chancellor are used, they shall also be understood to mean lord keeper and lords commissioners for the custody of the great seal; and that this act shall not extend either to Scotland or Ireland, except where the same are expressly mentioned or referred to.

Construction and extent of this act.

XLII. That from and after the passing of this act no commission of bankrupt shall be superseded, nor any fiat annulled, nor any adjudication reversed, by reason only that the commission, fiat, or adjudication has been concerted by and between the petitioning creditor, his solicitor or agent, or any of them, and the bankrupt, his solicitor or agent or any of them, save and except where any petition to supersede a commission for any such cause shall have been already presented and shall be now pending.

Concerted bankruptcies.

XLIII. That if the assignees of any bankrupt's estate shall agree to refer any matter in dispute with any party to arbitration, in such manner as by law they are empowered to do, such agreement of reference

Arbitration.

(1) Although the court of review has a controlling power in the appointment of an official assignee by the commissioner under this clause, yet the court will not interfere unless the commissioner has exercised an unsound discretion in the appointment. *Ex parte Bramston*, 2 Deac. & Ch. 375.

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c. 56.

Abolition of
fees to patentees.

Sum to be paid
to the secretary
of bankrupts on
the granting of
every fiat; and
application
thereof.

Assignee of
bankrupt's
estate to pay
20*l.* to the like
account.

Sums to be paid
on all commis-
sions moved
into the court
of bankruptcy.

Restriction of
fees on auditing
assignees' accounts.

Power for the
secretary of
bankrupts to
receive the fees
in the first
schedule.

may be made a rule of the court of bankruptcy by this act constituted, and thereupon all such rights and remedies, duties and liabilities, shall accrue from such reference so made a rule of the said court, in respect of arbitration and award, and nonperformance of such award, and otherwise howsoever, as by law at present accrue upon any submission of reference made a rule of any of his Majesty's other courts of record.

XLIV. That all fees heretofore payable to the person holding the patentee's office "for the Execution of the Laws and Statutes concerning Bankrupts," shall cease and determine; and that no fee whatever shall be payable to any person whomsoever holding any office under or by virtue of this act, except such as are provided by this act, or in the schedules hereto annexed, and except the fees payable to any commissioner acting in the execution of any commission or fiat issued or to be issued, and to be executed elsewhere than in the court of bankruptcy.

XLV. That there shall be paid to the lord chancellor's secretary of bankrupts, upon the granting of every fiat, in lieu of a commission of bankrupt, by virtue of this act, the sum of ten pounds; and the sums to be so received by the said secretary shall be by him paid once a week, or oftener, as the lord chancellor shall think fit to direct, into the bank of England, to the credit of the accountant general of the high court of chancery, to a separate account, to be entitled "The Secretary of Bankrupts Account;" and all monies to be paid into the said account shall be subject to such general orders touching the payment in, investment, accounting for, and payment out of such monies for the purposes herein-after provided, as the lord chancellor shall from time to time think fit to prescribe.

XLVI. That there shall be paid to the said accountant general, to be placed by him to the like account by the official assignee of each bankrupt's estate to be administered in the said court of bankruptcy, out of the first monies that shall come into his hands, and immediately after the choice of assignees by the commissioners, the sum of twenty pounds. (1)

XLVII. That in all cases of commissions of bankrupt which by virtue of the provisions herein contained shall be removed into the said court of bankruptcy, and under which the choice of assignees shall have taken place prior to the commencement of this act, there shall be paid by the assignees of every such bankrupt's estate, in lieu of all other sums directed to be paid under and by virtue of this act, the sum of three pounds on every sitting under such bankruptcy which shall be held in the said court, or by any division judge or commissioner thereof (2); such sum to be paid to the said accountant general, and to be carried to the said account entitled "The Secretary of Bankrupts Account:" Provided always, that no fee whatever shall be paid on any meeting for the purpose of auditing the assignees' accounts, unless there shall appear to the commissioners to be sufficient assets of the bankrupt's estate for the payment thereof.

XLVIII. That it shall be lawful for the lord chancellor's secretary of bankrupts for the time being, and his clerks, and he and they are hereby respectively authorized and required, to receive and take the several fees and sums set forth in the first schedule hereto annexed, in respect of the business therein specified; and the amount to be so received shall be by the said secretary applied in payment of salaries to a messenger and housekeeper, and the various other expences of his office, and the surplus (if any) of such moneys shall and may be retained for his own use.

(1) On the loss by the petitioning creditor of his evidence to support the fiat, the court of review will not, on a petition by another person for another fiat, order him to be exempt from paying the 10*l.* under sect. 45, and the 20*l.* under this section. *Ex parte Osborn*, 2 Mont. & A. 140.

(2) Where a country fiat is superseded, because the commissioners decline to act, and a new one issues to a London commissioner, this is not a "removed" fiat under this clause; and the full fees imposed by the two previous sections must be paid. *In re Willman*, 2 Mont. & A. 292.

XLIX. That it shall be lawful for the chief registrar of the said court of bankruptcy for the time being, and his clerks, and he and they are hereby respectively authorized and required, to receive and take the several fees or sums set forth in the second schedule hereto annexed, in respect of the business therein specified; and the amount to be so received shall be by him applied in payment of such salaries or sums of money to clerks, ushers, and other under officers of the said court of bankruptcy, as the lord chancellor may from time to time order and direct; and the yearly surplus (if any) of such moneys shall be divided between the two registrars, or between them and the deputy registrars of the said court, in such proportions as the lord chancellor shall appoint.

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c. 56.

Power for the chief registrar to receive the fees in the second schedule.

L. That from and after the commencement of this act there shall be paid and payable, out of the monies and securities standing to the said account to be entitled "The Secretary of Bankrupt's Account," the yearly sums following, as and for salaries to the judges and other officers for the time being herein-after named; videlicet, to the chief judge of the said court of bankruptcy the sum of three thousand pounds, to each of the other judges of the said court the sum of two thousand pounds, to each of the commissioners of the said court the sum of one thousand five hundred pounds, to the lord chancellor's secretary of bankrupts the sum of one thousand two hundred pounds, to each of the registrars of the said court the sum of eight hundred pounds, to each of the deputy registrars of the said court the sum of six hundred pounds, to the first clerk of the said secretary of bankrupts the sum of five hundred pounds, and to the second clerk of such secretary the sum of three hundred pounds; which said several sums shall be paid from time to time quarterly, free and clear from all taxes and deductions whatsoever, on the eleventh day of April, the eleventh day of July, the eleventh day of October, the eleventh day of January in every year, by equal portions, the first payment thereof respectively to be made on the eleventh day of April next; and that if any person for the time being holding either of the said offices shall die, resign, or be removed from the same, the executor or administrator of the person so dying, or the person so resigning or being removed, shall be entitled to receive such proportionable part of his salary as shall have accrued during the time that such person shall have executed his office since the last payment; and that the successor of any such person so dying, resigning, or being removed as aforesaid shall be entitled to receive such portion of his salary as shall be accruing or shall accrue from the day of such death, resignation, or removal.

Salaries of judges and other officers of the court.

LI. That no judge, commissioner, registrar, or deputy registrar to be appointed by virtue of this act shall during their respective continuance in such offices practise as a barrister, and that no attorney or solicitor whose name shall be on the rolls of the said court of bankruptcy, or of any of his Majesty's courts at Westminster, as such attorney or solicitor, shall be appointed to or hold any of the said offices.

Restriction as to judges and other officers practising as barristers, or being attorneys.

LII. And whereas the office of the patentee "for the Execution of the Laws and Statutes concerning Bankrupts" is now held by the reverend Thomas Thurlow, by virtue of a grant thereof by letters patent made to him for the term of his natural life, and the same office hath also been granted by letters patent to the honourable William Henry John Scott for the term of his natural life, after the termination of the previous existing interest therein: And whereas the duties of the said office, and the fees and emoluments payable in respect thereof, will by virtue of the provisions of this act be wholly discontinued; and it is just and reasonable that such compensation as is herein-after provided should be made to the said patentees, in lieu of such fees and emoluments; be it therefore enacted, That the accountant general and the two senior masters of the high court of chancery shall be and they are hereby appointed commissioners for the purpose after mentioned; and the said commissioners shall, within six months after the passing of

Provision for compensation to the patentees of bankrupts.

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c. 56.

this act, by examination on oath or otherwise, which oath they and each of them are and is hereby authorized to administer, inquire into and ascertain the amount of the annual clear legal profits and emoluments of the said office, to be computed on an average of the last three years, (after deducting all payments accustomed to be made thereanent,) and shall certify such amount in writing under their hands to the lord high chancellor, whereupon an annuity equal to such amount shall forthwith become a charge on an account to be opened by the said accountant general, and to be entitled "The Secretary of Bankrupts Compensation Account," and shall be paid and payable to the said Thomas Thurlow during his natural life, and from and after his decease to the said William Henry Scott during his natural life, in case he shall survive the said Thomas Thurlow; which annuity shall commence and be computed from the eleventh day of January next, and be payable half-yearly by equal portions on the eleventh day of July and the eleventh day of January in every year, the first of such payments to be made on the eleventh day of July next: Provided always, that in case of the death of either of the said patentees in the interval between either of the said half-yearly days of payment, his executor or administrator shall be entitled to receive a proportionate part of the annuity then payable to the day of his decease; and that the said William Henry John Scott, in case he shall survive the said Thomas Thurlow, shall be entitled to receive on the next half-yearly day of payment after his decease a proportionate part only of his said annuity from the day of such decease.

Compensations
to commission-
ers, clerk of the
hanaper, &c.

LIII. And whereas the duties of the several persons now acting as commissioners of bankrupt in London, and the fees and emoluments accustomed to be received by them, will be abolished by the provisions of this act, and the clerk of the hanaper, purse-bearer, and other officers of the lord chancellor and of the high court of chancery, have been accustomed to receive certain fees, which will also be abolished by this act; and it may be just and necessary that in all or some of such cases compensation should be made in respect of such fees so to be abolished; be it enacted, That it shall be lawful for the lords commissioners of his Majesty's treasury, by examination on oath or otherwise, which oath they and each of them are and is hereby authorized to administer, to inquire into and ascertain the annual amount of the lawful fees and emoluments of such commissioners and other officers received by them, and to award to all and every or such one or more of the said commissioners as they the said lords of the treasury shall deem to be entitled to the same, an annuity or annuities, of such an amount and for such term as the said lords of the treasury shall find to be a fair and reasonable compensation for the loss to be sustained by all or any of the commissioners and officers aforesaid, by the abolition of the said fees, and shall certify the amount of such annuity or annuities, in writing under their hands, to the lord high chancellor, who shall thereupon have power to order the amount so certified as payable to each commissioner or other officer to be paid out of the moneys and securities to be standing to the said account to be entitled "The Secretary of Bankrupts Compensation Account;" and the same shall be payable and paid accordingly to the respective persons aforesaid, without any deduction whatsoever: Provided always, that the annual sum to be so payable to any one of the said commissioners of bankrupt shall not exceed the sum of two hundred pounds, and shall not be paid to any such commissioner who at the commencement of this act or at any time afterwards shall hold any public office or employment of an annual value greater than the annuity to be so certified as payable to him, or be in the receipt of any yearly sum of money in lieu of or as a compensation for the proceeds of any such office or employment exceeding in amount such annuity, so long as any such office or employment shall be so held, or such sum of money shall continue to be received.

Provido as to
compensation to clerk of the hanaper.

LIV. Provided always, That the annuity or compensation hereby

directed to be made to the clerk of the hanaper shall be fixed and regulated upon the same computation and in like manner as is above provided with respect to the annuity or compensation for the patentee of the bankrupts office.

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c. 56.

LV. That for the purpose of raising a fund to meet the compensations herein-before directed to be made to the said patentees and commissioners of bankrupt, there shall be paid by the official assignee of each bankrupt's estate to be administered in the said court of bankruptcy, immediately after the choice of the assignees by the creditors, or so soon afterwards as a sufficient sum shall come into his hands for the purpose, over and beyond the sum herein-before directed to be paid by such official assignee, the sum of ten pounds, into the bank of England, to the credit of the said accountant general, to be carried to a separate account to be entitled "The Secretary of Bankrupts Compensation Account;" and in like manner there shall be paid to the said accountant general, to be placed by him to the like account, by such official assignee, for every sitting of the said court of bankruptcy, or of any division judge or commissioner thereof, other than the sitting at which any person may be adjudged a bankrupt, or any sitting for the choice of assignees, or any sitting for receiving proofs of debt prior to such choice, or any sitting at which any bankrupt shall pass his or her last examination, or any sitting at which any dividend shall be declared, or any sitting at which the bankrupt's certificate shall be signed by the commissioners, the sum of one pound, and for every such sitting at which a dividend shall be declared a sum of money or fee according to the amount at such sitting ordered to be divided, such fee being regulated by the following scale, *videlicet*, for all sums not exceeding ten thousand pounds ten shillings in every one hundred pounds, and for any excess above ten thousand pounds two shillings and sixpence in the one hundred pounds; such several payments to be made within one week after such sittings respectively shall be held; and all monies to be paid into the said last-mentioned account shall be subject to such general orders touching the payment in, investment, accounting for, and payment out of such moneys for the purposes herein-before provided, as the lord chancellor shall from time to time think fit to prescribe; and when and as such last-mentioned compensations shall from time to time cease to be payable, it shall be lawful for the said lord chancellor, as he may see fit, to direct that lesser sums shall be paid by the said official assignees at the several times and for the purpose last aforesaid.

Fees to be paid
into the bank
by official
assignee.

LVI. That if at any time it shall appear to the lord chancellor that the monies and securities standing to the said account to be entitled "The Secretary of Bankrupts Account," together with the fees expectant and to be payable to such account, shall be sufficient to answer and pay the several salaries and other payments for the time being chargeable thereon, and to leave a surplus applicable to the purpose after mentioned, it shall be lawful for the lord chancellor to order such abatement to be made in the fees herein-before made payable by the secretary of bankrupts and by the said official assignees, or by either of them, to the said account to be entitled "The Secretary of Bankrupts Account," as may to the said lord chancellor from time to time seem just and reasonable.

In case of a
surplus in the
secretary of
bankrupt's ac-
count, the lord
chancellor may
order an abate-
ment of fees.

LVII. That it shall be lawful for the commissioner before whom any person shall be adjudged a bankrupt in the said court of bankruptcy, or who shall appoint an official assignee under the power herein-before given for that purpose, to order and allow to be paid out of the bankrupt's estate, to the official assignee thereof, as a remuneration for his services, such sum of money as shall appear to such commissioner, upon consideration of the amount of the bankrupt's property, and the nature of the duties to be performed by such official assignee, to be just and reasonable.

Remuneration
to official
assignee.

LVIII. That if any judge, commissioner, registrar, deputy registrar, clerk, messenger, assignee, or any other officer or person whatsoever, officer taking fees.

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c. 56.

shall, for any thing done or pretended to be done under this act, or any other act relating to bankrupts, or under colour of doing any thing under this act or any other such acts, fraudulently and wilfully demand or take, or appoint or allow any person whatsoever to take for him or on his account, or for or on account of any person by him named, or in trust for him or for any other person by him named, any fee, emolument, gratuity, sum of money, or any thing of value whatsoever, other than is allowed by this act, and any other such act as aforesaid, such person, when duly convicted thereof, shall forfeit and pay the sum of five hundred pounds, and be rendered incapable and is hereby rendered incapable of holding any office or place whatsoever under his Majesty, his heirs or successors.

Offences
against this act.

LIX. That any such offender may be prosecuted either by information at the suit of his Majesty's attorney general or by criminal information before his Majesty's court of king's bench, or by indictment: Provided always nevertheless, That if any registrar, deputy registrar, clerk, messenger, or assignee shall commit any offence against this act, it shall and may be lawful for the court of review or the lord chancellor to dismiss the person so offending, upon proof made before him or them of such offence having been committed, upon a rule to shew cause: Provided further, That if such court, on cause being shewn, shall think fit to direct an issue to be tried touching the matter of the said charge such issue may be tried before the said chief judge or one of the other judges of the said court of review.

Judges and of-
ficers under
this act inelig-
ible to sit in
parliament.

LX. That no judge, commissioner, registrar, or deputy registrar, secretary of bankrupts, or official assignee, or other officer to be appointed by virtue of this act, shall during their respective continuance in such offices be capable of being elected or of sitting as a member of the house of commons.

Commence-
ment of this
act.

LXI. That this act shall commence and take effect from and after the passing thereof, as to the appointment of the judges and other officers hereby authorized, and as to all other matters and things, from and after the eleventh day of January next.

The FIRST SCHEDULE of Fees before referred to.

	£	s.	d.
For every docket struck, and not acted upon . . .	1	12	6
For every renewed fiat . . .	0	12	0
For every petition of appeal answered for hearing . . .	0	13	6
For every order on hearing . . .	1	5	0
For every previous minute of order . . .	0	3	6
For every warrant for advertising declaration of in- solvency . . .	0	2	6
For every certificate of a fiat issued to authorize ad- vertisement in the Gazette . . .	0	2	6
For every search made for fiat or other proceeding . . .	0	1	0
For filing affidavits and other documents . . .	0	1	0
For copies of affidavits, orders, and other proceed- ings, per folio of ninety words . . .	0	0	1½

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c. 56.

The SECOND SCHEDULE of Fees before referred to.

	£	s.	d.
On filing every fiat	0	1	0
For every certificate of bankrupts conformity	0	6	6
On entering every appeal for hearing in the court of review	0	2	0
For every order pronounced by that court	1	5	0
For every previous minute or order	0	2	6
For entering every matter for hearing in a subdivision court	0	1	0
For every order pronounced there	0	5	0
For fees on the trial of every issue, to be paid by the successful party	2	0	0
For every search made in the court	0	1	0
For filing affidavits and other documents	0	1	0
For copies of affidavits, orders, and other proceedings, per folio of ninety words	0	0	1½
For every subpoena ad test, and other writ issued out of the court	0	2	0

[No. II.] 1 & 2 W. IV. c. 114.—An Act to amend the Laws relating to Bankrupts. [15th August, 1832.]

WHEREAS by an act passed in the sixth year of the reign of his late Majesty, intituled, *An Act to amend the Laws relating to Bankrupts*, it is among other things enacted, that the lord chancellor may, upon petition, direct any depositions, proceedings, or other matter relating to commissions of bankruptcy to be entered of record by a proper person, to be appointed by the lord chancellor for that purpose, or by his deputy: And whereas the said act contains no sufficient provision for making such depositions or office copies of the record thereof evidence, and is in other respects defective: And whereas by an act passed in the first and second years of the reign of his present Majesty, intituled *An Act to establish a Court of Bankruptcy*, it is amongst other things enacted, That every fiat prosecuted in the said court of bankruptcy shall be filed and entered of record in the said court: And whereas the said last-mentioned act contains no provision for the entering of record in the said court fiats prosecuted elsewhere, and the depositions and proceedings under such fiats, or for the proof thereof: And whereas it is expedient that the record of all matters in bankruptcy should be under the same custody; be it therefore enacted, &c., That the records of all commissions of bankrupt, and of all proceedings under the same, which

6 G. 4, c. 16.
1 & 2 G. 4, c. 56.
Providing for the custody of

Y Y

No. II.
1 & 2 W. 4,
c. 114.

records under
former com-
missions of
bankrupt.

Matters in-
rolled before
Sept. 1825,
deemed to be
effectually
entered of
record.

Certificate of
such entry to
have the same
effect as if
commission had
been issued af-
ter Sept. 1825.

Judges may
order commis-
sions to be en-
tered on
record.

Certain matters
may be entered
on application
of parties.

Fiats to be en-
tered of record,
on application
of any inter-
ested party.

Fee for entry of
commissions
and fiats.

may have been heretofore entered of record pursuant to or under colour of the said first-recited act or any other act, shall be removed into the said court of bankruptcy, and shall be kept as records of the said court in such place as the judges of the said court shall from time to time direct; and that it shall and may be lawful for the judges of the court of bankruptcy to nominate the person heretofore appointed by the lord chancellor to enter such proceedings of record, or, in case of his refusal to accept such office, some other fit and proper person, as the clerk of enrolment to the said court, at such salary, to be paid out of the fee herein-after mentioned, as the lord chancellor shall by writing under his hand direct; and that such clerk of the enrolments and his successors (to be appointed in like manner, at the like salary,) shall have the care and custody of all the said records so removed as aforesaid, and shall in like manner enter of record all matters and proceedings in bankruptcy which by this act or by the said recited acts, or by any order made in pursuance thereof, are or may be directed to be entered of record, upon payment of the fees herein-after mentioned.

II. Provided always, That all commissions of bankruptcy issued before the first day of September one thousand eight hundred and twenty-five, and all depositions and other proceedings relating to such commissions, directed to be inrolled, and actually entered of record upon or since that day, shall be deemed and taken to have been well and effectually entered of record.

III. Provided nevertheless, That the certificate of such entry, purporting to be signed by the person appointed to enter such proceedings or by his deputy, shall have the same effect as if such commission had been issued after the said first day of September one thousand eight hundred and twenty-five, and shall be received in evidence without proof of the appointment or handwriting of such person.

IV. That any one of the judges of the court of bankruptcy shall have full power and authority, upon application made to him for that purpose, to direct such officer to enter upon the records of the court any commission of bankrupt at any time heretofore issued, and the depositions and proceedings had and taken under the same, or such parts thereof as such judge shall think fit: Provided always, That it shall and may be lawful for such officer to enter of record the several matters directed by the said recited acts or either of them to be entered of record, upon the application of or on behalf of any party interested therein, without any special order for that purpose.

V. That all fiats already issued or hereafter to be issued in lieu of commissions of bankrupt to be prosecuted elsewhere than in the said court of bankruptcy, and all adjudications of bankruptcy by the persons named in such fiats to act as commissioners, and all appointments of assignees, and certificates of conformity, made and allowed under such fiats, may and shall be entered of record in the said court of bankruptcy, upon the application of or on behalf of any party interested therein, on the payment of the fees hereafter mentioned, without any petition in writing presented for that purpose; and that any one of the judges of the said court may, upon petition, direct any deposition or other proceeding under such fiat to be entered of record as aforesaid.

VI. That there may and shall be paid for the entry of every commission and fiat the fee of two shillings, and for the entry of every certificate of conformity and of every assignment the fee of six shillings each, and for the entry of every examination such fee as the court of review shall from time to time fix and appoint, not exceeding the rate of one shilling for every folio thereof, and for the entry of every adjudication of bankruptcy, deposition, appointment of assignees, and every other proceeding or matter relating to commissions or fiats, the fee of two shillings each; which fees shall be paid to the chief registrar for the time being, and shall be applied by him to the payment of the expenses

of such enrolment and the salary of such officer; and the balance thereof, if any, shall be applied to the payment of such other expences attending the said court of bankruptcy as the judges thereof, with the consent of the lord chancellor, shall from time to time direct.

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1 & 2 W. 4,
c. 114.

VII. That in the event of the death of any of the witnesses deposing to the petitioning creditor's debt, trading, or act of bankruptcy, under any commission or fiat already issued or hereafter to be issued, it shall be lawful for the assignees appointed under such commission or fiat, and for all persons claiming through or under them, or acting by or under their authority, in the cases hereafter mentioned, to produce and read in evidence, in all courts of civil judicature, and in all civil proceedings, in maintenance and support of such commission or fiat, any deposition of such deceased witness relative to such petitioning creditor's debt, trading, or act of bankruptcy, which shall have been duly entered of record pursuant to the provisions of the said recited acts or of this act; and the production or reading of such depositions, or of any copy thereof, duly authenticated according to the provisions of the said recited acts or of this act, shall have the same effect as if the matters alleged therein had been deposed to by the same witness in such court according to the ordinary course and practice thereof: Provided always, that the before-mentioned depositions shall be read in evidence in such cases only where the party using the same shall claim, maintain, or defend some right, title, interest, claim, or demand which the bankrupt might have claimed, maintained, or defended in case no commission of bankrupt or fiat had issued, and shall not be read in evidence in any action or proceeding now pending by which the validity of any commission or fiat is or may be brought into question.

Provision in case of the death of witnesses.

VIII. That no fiat issued or to be issued in lieu of a commission of bankrupt, whether prosecuted in the court of bankruptcy or elsewhere, or any adjudication of bankruptcy or appointment of assignees, or certificate of conformity under such fiat, shall be received in evidence in any court of law or equity, unless the same shall have been first entered of record in the court of bankruptcy as aforesaid.

No fiat to be received in evidence unless first entered of record.

IX. Provided always, That upon the production in evidence of any commission, fiat, adjudication, assignment, appointment of assignees, certificate, deposition, or other proceeding in bankruptcy, purporting to be sealed with the seal of the said court of bankruptcy, or of any writing purporting to be a copy of any such document, and purporting to be sealed as aforesaid, the same shall be received as evidence of such documents respectively, and of the same having been so entered of record as aforesaid, without any further proof thereof: Provided nevertheless, that all fiats, and proceedings under the same, which may have been entered of record before the passing of this act, shall and may, upon the production thereof, with the certificate thereon, purporting to be signed by the person so appointed to enter proceedings in bankruptcy, or by his deputy, be received as evidence of the same having been duly entered of record, any thing herein contained notwithstanding.

Proceedings in bankruptcy, purporting to be sealed with the seal of the court, to be received as evidence.

X. And whereas by the said recited act of the first and second years of the reign of his present Majesty it is amongst other things enacted, that several sums therein specified shall be paid into the bank of England, to the credit of the accountant general of the high court of chancery, to an account to be intituled "The Secretary of Bankrupts Account," and that all monies so paid shall be subject to such general orders for the purposes therein specified as the lord chancellor shall prescribe; and it is further enacted, that compensation shall be made to certain officers herein named, in lieu of certain fees and emoluments by the said act abolished, and that for the purpose of raising a fund to meet the said compensation certain sums in the said act specified shall be paid into the bank, to the credit of the said accountant general, to a separate account to be intituled "The Secretary of Bankrupts Compensation

Lord chancellor empowered to direct certain monies standing to the credit of the secretary of bankrupts' account to be carried to the secretary of bankrupts' compensation account, and vice versa.

No. II.
1 & 2 W. 4,
c. 114

Account: "And whereas the sums paid in to the credit of the said first account are more than sufficient to meet the sums at present payable out of the same, and the sums paid in to the credit of the second-mentioned account are at present insufficient to meet the payments directed to be made out of the same, and it may be expedient that power should be given to the lord chancellor to apply one of those funds in aid of the other, from time to time as occasion may require; be it therefore enacted, That it shall and may be lawful for the lord chancellor by his order to direct, from time to time as he may see fit, that the monies standing to the credit of the account intituled "The Secretary of Bankrupts' Account," or so much thereof as he may find to be necessary, shall be carried over by the said accountant general to the credit of the account intituled "The Secretary of Bankrupts' Compensation Account," and the same when so carried over shall and may be applied in satisfaction of any sum or sums charged upon or made payable out of the said last-mentioned account; and in like manner to direct, from time to time as he may see fit, that the monies standing to the credit of the account intituled "The Secretary of Bankrupts' Compensation Account," or so much thereof as he may find to be necessary, shall be carried over by the said accountant general to the credit of the account intituled, "The Secretary of Bankrupts' Account," and the same when so carried over shall and may be applied in satisfaction of any sum or sums charged upon or made payable out of the said last-mentioned account.

[No. III.] 3 & 4 W. 4. c. 47.—An Act to authorize His Majesty to give further Powers to the Judges of the Court of Bankruptcy, and to direct the times of Sitting of the Judges and Commissioners of the said Court.

[28th August 1833.]

WHEREAS by an act passed in the seventh year of the reign of his late Majesty king George the fourth, intituled *An Act to amend and consolidate the Laws for the Relief of the Insolvent Debtors in England*, 7 G. 4, c. 57.

it is amongst other things enacted, That the court established for the relief of insolvent debtors in England shall be continued, and that the several persons appointed by his Majesty to be chief and other commissioners of the said court shall continue to be the chief and other commissioners of the said court, with all the powers, privileges, and authorities in the said act specified: And whereas by an act passed in the first and second years of the reign of his present Majesty, intituled *An Act to establish a Court in Bankruptcy*, it is enacted, That it shall be lawful for his Majesty, his heirs and successors, by a commission under the great seal, to appoint one person to be the chief judge and three other persons to be other judges of the said last-mentioned court: And whereas such chief and other judges have been duly appointed under and by virtue of the said act: And whereas it has been found, that consistently with the vacation necessarily allowed to the commissioners of the first-mentioned court, and with the time occupied by them while they are on their several circuits, intervals occur in their sittings during which prisoners who would otherwise be entitled to their discharge cannot obtain the same: And whereas there are not a sufficient number of such commissioners to enable them to extend their circuits to the principality of Wales; of all which grievances repeated complaints have been made: And whereas the business of the said court of bankruptcy will allow time for the judges of the said court, other than the chief, some one or more of them, to discharge part of the duties vested in the commissioners of the said first-mentioned court: Be it enacted, &c., 1 & 2 W. 4, c. 56.

That it shall and may be lawful for his Majesty, his heirs and successors, from time to time, by commission under the great seal of Great Britain, to authorize and direct the judges of the said court of bankruptcy, other than the chief judge, any one or more of them, to act in the said first-mentioned court as a commissioner or commissioners hereof, at such times and for such purposes as may in any such commission be specified.

II. That the said judge or judges so to be named in the said commission shall have and may exercise all the powers, authorities, and privileges, whether in the court house of the said first-mentioned court, or upon the circuit, or elsewhere, which by the said first-recited act are given to or vested in the commissioners of the said first-mentioned court, or any one or more of them.

III. That it shall and may be lawful for the said first-mentioned court forthwith, after such petition and schedule as are by law required shall have been filed in the said court by any prisoner lawfully entitled so to do, being in any gaol within the principality of Wales, to order such prisoner to be brought before one of the commissioners of the said first-mentioned court or judges of the said court of bankruptcy (acting by virtue of this act) proceeding on his circuit at such assize or other town or place within the county or county of a city or town wherein such gaol shall be situate, as may be directed by order of the said first-mentioned court in that behalf; and the matters of the petition of such prisoner shall be heard by such commissioner or judge accordingly, who shall for that purpose have and exercise all the powers, authorities, and privileges which are by law now vested in such commissioners severally

His Majesty may direct the judges, other than the chief, of the bankruptcy court, to act in the insolvent debtors' court.

Such judges to have the same powers as the commissioners of the insolvent debtors' court.

Insolvent court empowered to order prisoners to be brought before one of the commissioners or judge of the court of bankruptcy.

No. III.
3 & 4 W. 4,
c. 47.

Clerks of the
peace of princi-
pality of Wales
to bring to the
place of hear-
ing petitions,
the duplicate of
petition,
schedule, &c.

Treasury may
direct payment
of travelling
expences of
judges, &c.

Court of review
may direct
registrars
or deputy re-
gistrars to at-
tend the said
judges.

Powers given
to his Majesty
with respect to
the court of
bankruptcy.

Court of review
may make or-
ders as to tax-
ing of costs.

on circuit in England : Provided always, That nothing herein contain-
shall be construed to prevent the said first-mentioned court from ord-
ing any such prisoner to be brought before the justices of the peace
the said act mentioned in cases where the said court may see fit so to do
and that the matters of any such petition may be heard by such justice
and all other proceedings had therein, in manner directed by the said
first-recited act.

IV. That the clerks of the peace for the several counties within the
principality of Wales, or their deputies, shall bring to the place of hear-
ing of any petition of any such prisoner before such judge or commis-
sioner the duplicate of petition, and schedule, books, papers, and writ-
tings lodged with him, as by the said first-recited act the clerks of the
peace in England and their deputies are required to do before the com-
missioners going circuits in England; and that such clerks of the peace
in Wales, or their deputies, shall do all such other acts at the time
of such hearings, and be entitled to such fees and allowances,
are required of or allowed to clerks of the peace in England and their
deputies.

V. That it shall and may be lawful for the lord high treasurer or lord
commissioners of his Majesty's treasury of the united kingdom of Great
Britain and Ireland for the time being to direct that such sum or sums
shall be paid as may appear fit and necessary for the defraying the
travelling expences of such judge or judges, with their or his registrar
deputy registrar, and other necessary officers, in the execution of their
duties under this act.

VI. That it shall and may be lawful for the court of review in bank-
ruptcy to order and direct any one or more of the registrars or deputy
registrars of the said court of bankruptcy to attend any one or more
the said judges in the discharge of their duties under this act, and
give such attendance and perform such duties as the said court of review
may by any order direct.

VII. That it shall be lawful for his Majesty, his heirs and successors
by warrant under his royal sign manual, from time to time to authorise
any one or more judge or judges of the said court of bankruptcy
exercise the same jurisdiction and powers in all respects as by the said
secondly-recited act is and are given to any three of such judges; and
also by any such or the like warrant to direct at what times the
said court of review, and the judges or commissioners of the said
court of bankruptcy, and every of them, shall respectively hold their
sittings.

VIII. That it shall and may be lawful for the said court of review
order that any costs, which by the said secondly-recited act are directed
to be taxed by one of the masters of the high court of chancery, shall
and may be taxed by one of the registrars or deputy registrars of the
said court of bankruptcy.

No. IV.] 5 & 6 W. IV. c. 29.—An Act for investing in Government Securities a Portion of the Cash lying unemployed in the Bank of England belonging to Bankrupts' Estates, and applying the Interest thereon in discharge of the Expences of the Court of Bankruptcy, and for the Relief of the Suitors in the said Court; and for removing Doubts as to the Extent of the Powers of the Court of Review and of the Subdivision Courts.

[21st August 1835.]

WHEREAS by an act passed in the first and second years of the 1 & 2 W. 4, reign of his present Majesty, intituled *An Act to establish a Court in Bankruptcy*, it was enacted, that it should be lawful for his Majesty, his heirs and successors, to establish a court of judicature, which should be called "The Court of Bankruptcy," and to appoint judges, commissioners, and other officers of the said court; and that it should be lawful for the lord chancellor to choose official assignees to act in all bankruptcies prosecuted in the said court, and to collect the effects of bankrupts, and to pay the proceeds thereof into the bank of England to the credit of the accountant general of the high court of chancery, subject to the order of the lord high chancellor, or the said court or any judge thereof, as therein mentioned; and it was further enacted, That certain fees and sums of money specified in the said act should be received by the lord chancellor's secretary of bankrupts, and paid by him into the bank of England, to the credit of the said accountant general, to an account to be intituled "The Secretary of Bankrupts Account," and that there should be paid out of the monies standing to that account certain yearly sums specified in the said act as and for salaries to the judges and other officers of the said court for the time being; and it was further enacted by the said act, that certain annuities, the amount hereof to be ascertained and certified as in the said act is mentioned, should be respectively paid to the patentee for the execution of the laws and statutes concerning bankrupts, to certain persons then acting as commissioners of bankrupt in London, and to certain officers of the lord chancellor and of the high court of chancery mentioned in the said act, in lieu of and as compensation for certain fees and emoluments accustomed to be received by them, and which would by the provisions of the said act be wholly discontinued and abolished, out of the monies and securities standing to an account to be opened by the said accountant general, to be intituled "The Secretary of Bankrupts Compensation Account;" and that certain fees and sums of money specified by the said act should be paid by the said official assignees into the bank of England to the credit of the said accountant general, to be carried to the said accounts respectively: And whereas his Majesty did, by virtue and in pursuance of the said act, establish the said court of bankruptcy, and did appoint judges and commissioners and registrars and deputy registrars of the said court: And whereas official assignees have been chosen by the lord chancellor to act in bankruptcies as aforesaid: And whereas the amount of certain annuities have been duly ascertained and certified, in pursuance of the said act, to be due and payable to the persons therein mentioned, in lieu of the fees and emoluments aforesaid: And whereas an account has been opened in the bank of England by the said accountant general, intituled "The Secretary of Bankrupts Account," and another account has been opened in the bank of England by the said accountant general, intituled "The Secretary of Bankrupts Compensation Account:" And whereas the said official assignees have paid into the bank of England in the name of the said accountant general divers large sums of money, which have been placed to the credit of

No. IV.
5 & 6 W. 4,
c. 29.

Part of the money in the bank belonging to bankrupts' estates to be carried to an account to be called, "The Bankruptcy Fund Account."

Sum advanced to credit of bankrupts' compensation account to be repaid by order of lord chancellor.

Lord chancellor to appoint accountant in bankruptcy.

the several bankrupts estates: And whereas there now is and has been for a long time a very large sum of money belonging to bankrupt estates, or to suitors in matters of bankruptcy, standing in the name of the said accountant general, which lies dead and unemployed in the bank of England: And whereas it was necessary for the said accountant general to appoint certain persons to act as clerks in the performance and execution of the duties imposed upon him by the said act; but provision is made by the said act for the salaries of the said clerks and the other expences necessarily incident to the performance of the said duties, other than out of certain fees directed to be paid to the clerk or registrar of the said court: And whereas the business arising from the duties imposed upon the said accountant general by the said act is gradually increasing, and the present establishment of clerks is likely to become inadequate to transact the same with that accuracy and despatch which is necessary for the public service: And whereas the payment of the fees authorized by the said act, or a part thereof, will become unnecessary, and the same may be discontinued if another fund is provided for the payments now made out of the said fees by the authority of the said act: Be it therefore enacted, &c., That out of the cash belonging to the estates of bankrupts, or to suitors in matters of bankruptcy, then now lies or shall hereafter lie dead and uninvested, on securities in the bank of England, in the name of the said accountant general, or of the said accountant in bankruptcy hereafter mentioned, any sum or sums not exceeding in the whole the sum of three hundred thousand pounds shall and may, by virtue of any order or orders of the lord high chancellor be made for that purpose, from time to time be placed out in one entire sum or in parcels, in the name of the said accountant general or of the said accountant in bankruptcy, after the appointment of the said last mentioned accountant, on such government or parliamentary securities as in and by such order or orders shall be directed; and such securities shall be carried to an account to be intituled "The Bankruptcy Fund Account," subject to such rules and orders as the lord high chancellor shall think fit to prescribe for the purposes herein mentioned.

II. And whereas the monies and securities standing to the credit of the said account, intituled "The Secretary of Bankrupts Compensation Account," were in the month of August one thousand eight hundred and thirty-four found inadequate to meet the several payments then due and payable thereout, and the sum of two thousand four hundred pounds was, on application to the lords commissioners of his Majesty's treasury then advanced and paid by them, through the lord chancellor's secretary of bankrupts, into the bank of England to the credit of the said account, for the purpose of enabling the several payments then due to be paid and discharged to the parties entitled thereto; but no power of authority exists under the provisions of the said first-recited act, otherwise, for the repayment of such sum out of the monies and securities standing to the credit of the said account; be it therefore enacted, That it shall be lawful for the lord high chancellor to order that the said sum of two thousand four hundred pounds so advanced and paid by the lords commissioners of his Majesty's treasury to the credit of the said account, intituled "The Secretary of Bankrupts Compensation Account," shall be repaid out of the monies and securities which now stand or hereafter may be standing to the credit of such account, and that the same shall be repayable and repaid accordingly, and until so repaid shall be considered a charge on such account; any thing in the said first-recited act or other act or acts contained to the contrary notwithstanding.

III. And whereas from the increased amount of the funds belonging to bankrupts estates, and the large number of accounts to which such funds belong, and which are daily augmenting, it appears that such funds and such accounts cannot be properly protected and managed by the said accountant general of the high court of chancery, and it is expedient therefore that an officer experienced in and conversant with

e mode of keeping accounts, to be called "The Accountant in Bankruptcy," shall be forthwith appointed to superintend and control the re and management of the said funds; be it therefore enacted, That shall be lawful for the lord high chancellor for the time being to nominate from time to time as occasion may require some fit and proper person to be the accountant in bankruptcy; which officer so to be appointed shall hold his office during good behaviour, notwithstanding the demise of his Majesty, or any of his heirs or successors: Provided always, that it shall be lawful for the lord high chancellor by any order to remove any such officer for some sufficient reason to be in such order expressed.

IV. That at any time after the appointment of the said accountant in bankruptcy it shall and may be lawful for the lord high chancellor, by any general or other order or orders, to direct that the whole or any part of the cash, funds, or securities belonging to bankrupts' estates or to creditors in matters of bankruptcy, and then standing in the name or to the credit of the said accountant general of the high court of chancery, in the bank of England, to the credit of any bankrupt's estate, or of any assignee or assignees of such estate, or in the matter of any bankruptcy, be forthwith paid and transferred into the name and to the credit of the said accountant in bankruptcy; and all such payments or transfers as now are or heretofore have been made into the bank in the name or to the credit of the accountant general of the high court of chancery in matters of bankruptcy shall, from and after the appointment of the said accountant in bankruptcy, be made in the name or to the credit of the said accountant in bankruptcy; and all cash, funds, or securities to be paid or transferred as aforesaid shall be subject to such and the like revisions, regulations, rules, and orders as the same are or would have been subject to if paid or transferred in the name or to the credit of the said accountant general of the court of chancery, except as the same may be altered by this act, or any rule or order to be made by the lord high chancellor in respect of the same.

V. And whereas by an act passed in the sixth year of the reign of his late Majesty king George the Fourth, intituled *An Act to amend the Laws relating to Bankrupts*, it is amongst other things enacted, that the assignees shall file a certificate in the office of the lord chancellor's secretary of bankrupts, containing an account of the names of creditors to whom unclaimed dividends are due, and of the amount of such dividends; and power is thereby given for the investment of such dividends; and after the expiration of three years the lord chancellor is empowered to order the same to be divided amongst and paid to the other creditors in manner therein mentioned; be it enacted, that so much of the said act as directs the filing of the said certificate, and the investment, division, and payment of such unclaimed dividends, be and the same is hereby repealed.

VI. That all dividends unclaimed as herein-after mentioned, and also any undivided surplus of a bankrupt's estate, over and above the amount lawfully directed to be divided amongst the creditors of any bankrupt, shall be paid into the bank of England to the credit of the accountant general of the high court of chancery, or of the accountant in bankruptcy, when such last-mentioned officer shall have been appointed, to be carried to an account to be entitled "The Unclaimed Dividend Account," subject to the order of the lord high chancellor, or of the court of review in bankruptcy, or of any commissioner of the said court, for the payment thereof of any dividend or dividends due to any creditor or creditors, and subject also to the order of the lord chancellor for the laying out and investment thereof in the purchase of government or parliamentary securities, which securities shall be carried to the before-mentioned account to be intituled "The Bankruptcy Fund Account," and shall be subject to such rules and regulations as the said lord chancellor shall direct: Provided always, That

No. IV.
5 & 6 W. 4,
c. 29.

Bankrupts' estates to be transferred into the name of the accountant in bankruptcy.

So much of 6 G. 4, c. 16, as directs the filing of the certificate and the investment, &c. of unclaimed dividends, repealed.

Unclaimed dividends to be paid into the bank to the credit of accountant general, or when appointed, to the accountant in bankruptcy.

No. IV
5 & 6 W. 4,
c. 39.

How un-
claimed divi-
dends, &c. in
the hands of
assignees to be
disposed of.

any order of any commissioner for payment of any dividend, in the provisions aforesaid, shall be subject to appeal to the said court of review.

VII. That if any assignee under any commission of bankruptcy or in bankruptcy now issued or hereafter to be issued shall have, either in his own hands, or at any bankers, or otherwise subject to his order or disposition, or shall know that there is or are in the hands or subject to the order and disposition of himself and any co-assignee or co-signees, or of any or either of them, any unclaimed dividend or dividends amounting in the whole to the sum of twenty pounds, or any undivided surplus as aforesaid amounting to the sum of twenty pounds, such assignee shall, as to any such now existing unclaimed dividend or dividends, within one year after the passing of this act, and as to any future dividend or dividends within three calendar months next after the expiration of one year from the time of the declaration in order of payment of such future dividend or dividends, either pay the same to the creditor or creditors or other the person or persons entitled to the same respectively, or cause a certificate thereof respectively to be filed in the office of the lord chancellor's secretary of bankrupts, containing a full and true account of the name or names of the creditor or creditors to whom such unclaimed dividend or dividends is or are respectively due, and of the amount of such dividend or dividends respectively; and shall in like manner, as to any such now existing undivided surplus as aforesaid, within one year after the passing of this act, and as to any such future undivided surplus as aforesaid within three calendar months next after the expiration of one year after the final declaration of dividends, cause a certificate stating the full and true amount of such surplus to be filed in the office of the said secretary of bankrupts; and every certificate to be filed as aforesaid shall be signed by the assignee or assignees filing the same; and every assignee who shall, according to the provisions of this act, be bound to file such certificate as aforesaid, and who shall make default in filing the same shall be charged, in account with the estate of the bankrupt, with interest upon the amount of such unclaimed dividend or dividends or undivided surplus as aforesaid, to be computed from the time at which such certificate is hereby required to be filed, at the rate of five pounds per centum per annum, for such time as he shall thenceforth, either solely or together with any co-assignee or co-signees, or other persons or persons, retain such dividend or dividends or undivided surplus, the case may be, and also with such further sum as the lord chancellor or the court of review shall direct, not exceeding in the whole at the rate of twenty pounds per centum per annum, to be computed from the time aforesaid; and every assignee shall, within one year next after the filing of any such certificate as aforesaid, pay or cause to be paid into the bank of England to the name of the accountant general of the high court of chancery, or of the accountant in bankruptcy, when such last mentioned officer shall have been appointed, to be carried to the said account to be intitled "The Unclaimed Dividend Account," the full amount of the unclaimed dividends mentioned in such certificate, or so much thereof as shall not have been then paid to the creditor or creditors or other person or persons entitled thereto, and also the full amount of such undivided surplus as aforesaid; and if any assignee shall make default in such payment it shall be lawful for the lord chancellor or the said court of review, on petition or otherwise, to order the said sum or sums to be forthwith paid into the bank of England in manner aforesaid, together with such further sum to be charged on such assignee or assignees, or other party or parties personally, as to the said lord chancellor or to the said court may seem fit, not exceeding at and after the rate of twenty pounds per centum per annum on the sum or sums so withheld, to be computed from the filing of such certificate up to the time of payment of such sum or sums, and also to make

h further order as to costs as the justice of the case shall seem to require: Provided always, That no such certificate as aforesaid of any claimed dividend or dividends shall be filed until the expiration of year after the declaration and order for payment of such dividend dividends.

No. IV.
5 & 6 W. 4,
c. 29.

III. That the said accountant general in chancery or the said accountant in bankruptcy, as the case may be, shall, on the application of any assignee or assignees, give to him or them a certificate or certificates stating the amount of any sum or sums of money which he or y may be desirous of paying into the bank of England under the provisions aforesaid; and on the production of such last-mentioned certificate or certificates the governor and company of the bank of England shall receive the sum or sums therein mentioned, and give a receipt or receipts for the same, and shall forthwith carry the same to the credit of the said accountant general or the accountant in bankruptcy, as the case may be, to the said account intituled "The Unclaimed Dividend account;" and every such certificate and receipt shall be given without fee or reward.

Certificates to be given to assignees, on production of which bank of England shall receive the sums therein mentioned, and give receipts for the same.

IX. That the interest and dividends of all the securities to be purchased under the authority of this act shall from time to time be received by the governor and company of the bank of England, and be carried to an account to be intituled "Interest arising from the Bankruptcy Fund Account," to the credit of the accountant general in chancery or the accountant in bankruptcy, as the circumstances may require.

Interest to be received by the governor and company of the bank.

X. That out of the interest and dividends of the government or parliamentary securities to be purchased under the authority of this act, and out of the interest and dividends of any government or parliamentary securities to be hereafter purchased and placed to the said account to be intituled "The Bankruptcy Fund Account," there shall be paid by the governor and company of the bank of England, by virtue of any order or orders of the lord chancellor to be made for that purpose, to the said accountant in bankruptcy, such salary or yearly sum as the lord high chancellor may by any order or orders direct, not exceeding the yearly sum of eight hundred pounds, and also to the clerks of the said accountant in bankruptcy such sums by way of salary as the lord chancellor shall by order direct, and also any further sum to the said accountant in bankruptcy which may be necessary or expedient to defray the expences of stationery, and other necessary expences of the said accountant, if any, to be by him incurred in discharge of the duties imposed upon him by this act; such several salaries or yearly sums before mentioned to be paid quarterly, free of charges; the first quarterly payment to the accountant in bankruptcy for the time being to commence from the day of his appointment, and as to the said clerks to commence from the eleventh day of January one thousand eight hundred and thirty-five, or from such other day as may in any such order be specified: Provided always, that nothing herein-before contained shall authorize the lord chancellor to order the payment in any one year of any sum exceeding the sum of one thousand pounds for the payment of the salaries of the said clerks, and the discharge of such expences of stationery and other incidental expences as aforesaid.

Salaries and other expences to be paid out of the same by the direction of the lord chancellor.

XI. That it shall and may be lawful to and for the lord high chancellor, upon the requisition of the said accountant in bankruptcy for that purpose, to appoint one or more, not exceeding five, persons to be clerks of the said accountant, and to order such yearly salaries as aforesaid to be paid to them.

Lord chancellor may appoint additional clerks, if necessary.

XII. That the salaries herein-before provided shall be in lieu of all fees and emoluments whatsoever; and that all such fees and emoluments, whether for commission, brokerage, or otherwise, as are now receivable by the said accountant general of the court of chancery in matters of bankruptcy, shall, from and after the appointment of the said account-

Accountant not to retain fees.

No. IV.
5 & 6 W. 4,
c. 29.

Retiring allowance to Charles Elley.

Lord chancellor may direct interest from securities to be carried to the secretary of bankrupts' account.

Salaries to be paid on such days as the chancellor shall direct.

If the fund is not sufficient at

ant in bankruptcy, be received by him, and paid into the bank in name of the said last-mentioned accountant, and be carried to the credit of the said account to be intituled "Interest arising from the Bankruptcy Fund Account," and be applicable to all the purposes of the said account.

XIII. And whereas Charles Elley, the chief clerk in the office of the lord chancellor's secretary of bankrupts, is now of the age of seven years and upwards, and has been upwards of fifty years in the said office, and from rheumatism and other bodily infirmities is become incapable of giving full attendance so as effectually to discharge the duties of the said office, and the emoluments of his said office were very much reduced by the operation of the said first-recited act, and the said Charles Elley is desirous to be allowed to retire from the said office by reason of such infirmities; be it therefore enacted, That it shall and may be lawful for the lord high chancellor, upon the retirement or removal from the said office of the said Charles Elley, to order and direct that there shall be paid to him during his life such annual sum not exceeding four hundred pounds per annum as to the said lord chancellor shall seem fit, such annual sum to commence on the retirement or removal of the said Charles Elley as aforesaid, and be payable at such time or times as the said lord high chancellor shall direct; which said annual sum shall be chargeable upon and payable out of the said account intituled "The Secretary of Bankrupts' Compensation Account."

XIV. That it shall be lawful for the said lord high chancellor, by any order or orders to be by him from time to time made for that purpose, to order and direct that all or any part of the interest and dividends to be carried to the said account to be intituled "Interest arising from the Bankruptcy Fund Account" may be carried over to the said account respectively intituled "The Secretary of Bankrupts' Account" and "The Secretary of Bankrupts' Compensation Account," or either of them, and that the same may be applied in payment or in part satisfaction of the annual and other sums now or hereafter to be chargeable upon and made payable out of the sums directed to be carried to the said last-mentioned accounts or either of them, and also to direct that the salaries and other sums by the said first-recited act directed to be paid to the chief registrar of the court of bankruptcy may be paid out of the said interest and dividends, as the said lord high chancellor shall in his discretion see fit, so that the salaries and other expences of the said court being provided for out of the interest and dividends to be raised as aforesaid, the fees and other sums by the said act directed to be paid may be abolished or reduced as the said lord high chancellor may find himself from time to time enabled to abolish or reduce the same.

XV. That it shall and may be lawful to and for the said lord high chancellor, by any order or orders, to direct that all and every or any of the salaries by this act, or the annuities by way of compensation by the said first-recited act, made payable, or any part of any such salary or annuity, shall and may be paid respectively on such days and by such yearly or other payments as in the said order or orders shall be specified and in case of the death, resignation, or removal of any of the officers or persons entitled to salaries or annuities as aforesaid, by the same or other order or orders to direct that the proportion of any salary or annuity payable as aforesaid which may become due to any officer or person as aforesaid between the time to which any such salary or annuity may have been then last paid or payable and the time of any such death, resignation, or removal, shall be paid to the said officer or other person so resigning or being removed, his executors, administrators, or assigns or to the executors or administrators of any officer or other such person so dying.

XVI. That if at any time hereafter the whole or any part of the money

ed out in pursuance of this act shall be wanted to answer any of the
ands due in respect of the said bankrupts estates, then and in such
the said lord high chancellor may and shall direct the whole or any
of the securities in which the same may be placed to be sold and
posed of, and the money arising from such sale to be paid into the
k of England in the name of the said accountant general in chancery
he accountant in bankruptcy, in such manner as the said lord chan-
or shall direct, in order that the demands due in respect of the said
krupsts' estates may at all times be fully paid out of the common and
eral cash belonging to such estates.

CVII. That it shall be lawful for the lord high chancellor, by any
er or orders, to authorize the change of the securities to be purchased
suant to this act, or any part of the same.

CVIII. And to the end that no suitor or suitors of the said court of
krupsty may be delayed in payment of any money due to him, her,
them, but that every one may receive his or her full demand whenso-
er he or she shall apply for the same, in the most easy and expediti-
s way; be it enacted, That all the money and cash now deposited in
bank, or that shall at any time hereafter be paid into or deposited
the bank, on the account of bankrupts estates or in any matter of
nkruptcy, shall be and be accounted and taken to be one common
d general cash, and shall be promiscuously issued and issuable for the
swering, paying, and clearing the debts and demands thereon.

XIX. That out of the interest and dividends of the said government
parliamentary securities to be purchased as aforesaid the costs,
arges, and expences of all proceedings to be had under this act shall
paid by the governor and company of the bank of England by virtue
any order of the said lord high chancellor.

XX. Provided always, That if at any time hereafter the whole or any
rt of the money to be laid out in pursuance of this act shall be wanted
answer the demand of any bankrupts or their creditors or other per-
ns interested therein and the stocks, funds, and cash then standing
the name of the said accountant general in chancery or the account-
nt in bankruptcy to the several accounts before mentioned and
eated by this act, or either of them, shall not be sufficient to answer
ad satisfy the said demands, then the same money taken for the pur-
oses and by virtue of this act shall be and shall be considered a debt
ie from the public, and to such extent as may be necessary shall be
answered and made good by parliament accordingly.

XXI. And whereas by the firstly herein-before recited act it is enacted
at there shall be chief judge and three other judges of the said court
f bankruptcy, and that there shall be two registrars and eight deputy
gistrars of the said court: And whereas a vacancy having occurred by
ie death of one of such judges, such vacancy has not been supplied,
nd it appears that the duties of the said court may be effectually per-
ormed by the chief judge and two other judges; be it therefore enacted,
hat hereafter there shall be only two judges of the said court other
an the chief judge; and it is also appearing that upon the appoint-
ment hereby authorized, being made of an accountant in bankruptcy,
art of the duties now performed by the chief registrar of the said court
may be discharged by such accountant, so that the duties now performed
y the two registrars and the two deputy registrars not attached to the
ommissioners of the said court may be discharged by two registrars
nd one deputy registrar; be it therefore enacted, that as and when any
vacancy may occur by the death, removal, or retirement of any one of
he said registrars, such vacancy shall be supplied by the deputy regis-
rar acting under the registrar by whose death, removal, or retirement
uch vacancy shall occur; and that when any vacancy shall occur by
he death, removal, or retirement of either of the said two last-mentioned
leputy registrars, such vacancy shall not be supplied so as to provide
ltogether for more than two such registrars, and one such deputy
egistrar other than the six deputy registrars attached to the com-

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any time then
the securities to
be sold.

Securities pur-
chased may be
changed.

Cash in the
bank belonging
to bankrupts'
estates to be
one common
and general
cash.

Expences of
proceedings
under this act
to be paid out
of the fund.

If money not
sufficient for
the purposes of
this act, the
same to be
made good by
parliament.

Court in future
to consist of
one chief judge
and two judges.

In the event of
death or re-
moval of a re-
gistrar, vacancy
to be supplied
by deputy re-
gistrar acting
under him.

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c. 29.

Annual returns
to parliament.

Mode of forming
subdivision
courts in case
of non-attend-
ance of any
commissioners
of the division
to which cause
is referred.

Power given to
courts to admin-
ister oaths on
affidavits.

Fees.

Court of review
and subdivision
courts declared
to have been
courts of record
from the pass-
ing of 1 & 2
W. 4, c. 56.

missioners aforesaid; and it shall be lawful for the court of review, and as any such vacancy shall occur, to make such general orders the duties to be performed by such registrars and deputy registrars they shall think fit.

XXII. That within two months from the first day of January in every year returns shall be presented to parliament if then sitting, and then within one month after parliament shall have assembled, by the said accountant general of the court of chancery or the accountant in bankruptcy (as the case may be), of the net amounts at the credit of the said accountant on the said first day of January on each of the following distinct accounts, which returns shall respectively specify the amounts transferred and paid out as dividends, and the amount paid by order of the court or of the judges, and shall also show the unappropriated balance then existing on each account; *videlicet*, First, The Bankruptcy Fund Account; Second, The Interest arising from the Bankruptcy Fund Account; Third, The Unclaimed Dividend Account; Fourth, The Secretary of Bankrupts' Account; Fifth, The Secretary of Bankrupts' Compensation Account; the Fourth and Fifth of such Accounts to be in the form of appendixes attached to them, detailing all payments made from such accounts, and to whom made, and whether as salaries, compensation, or other allowances.

XXIII. And whereas by the said first-recited act it is enacted, That the six commissioners therein mentioned may be formed into two subdivision courts, consisting of three commissioners for each court, for the purposes therein mentioned; and that all references and adjournments by a single commissioner to a subdivision court by virtue of the said act shall be to the subdivision court to which he belongs, and that the said commissioner, in case of the sickness of some one or more of the commissioners of such subdivision court, or for other sufficient cause, shall think fit otherwise to direct; be it enacted, That in case of the nonattendance of any one or more of the commissioners of either of the said subdivision courts, to be duly summoned for that purpose, such reference shall not be of necessity to the other subdivision court, but that it shall and may be lawful for the remaining commissioner or commissioners of such subdivision court to call in and require the attendance of either or any of the commissioners of the other of the said subdivision courts, and that such commissioners may form a subdivision court for the purposes of the said recited act as fully and effectually as either of the two subdivision courts so now authorized to be formed aforesaid.

XXIV. That the said court of review and either of the said subdivision courts, and also any judge or commissioner of the court of bankruptcy, shall have power to administer oaths on affidavits to be sworn before them respectively in matters of bankruptcy in all cases where the same may be administered by a master in ordinary or extraordinary of the high court of chancery, and to take for every such oath, except where such oath shall be administered to an affidavit entered in the court of bankruptcy or in the court of review, the fee of one shilling and sixpence, which said fee shall be payable and be paid accordingly; and that all such fees shall be accounted for and be paid over to the chief registrar of the said court of bankruptcy, and be carried to the account of the second schedule of fees annexed to the said first-recited act, and be applied to the purposes of the said schedule.

XXV. And whereas doubts have been entertained whether, by the terms of the said first-recited act, the said court of review and subdivision courts have been effectually made courts of record; and whether the said courts have upon an examination before them the same power of commitment for the purpose of enforcing discovery as were vested in commissioners of bankrupt under the acts of parliament relating to bankrupts in force at the time of the passing of the said first-recited act; and it is expedient that such doubts be removed, and that such

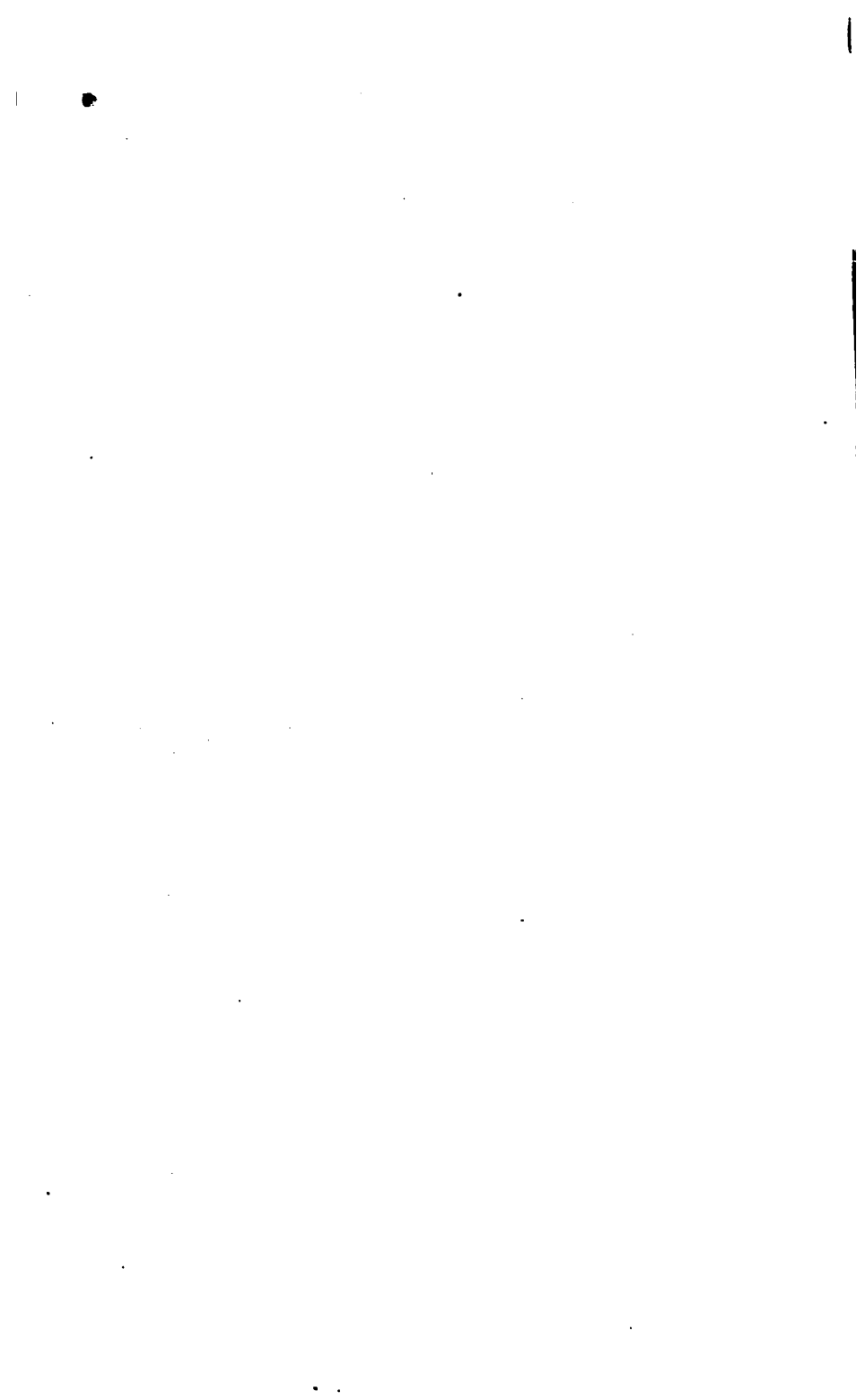
rs as are herein-after mentioned should be given to the several
s and commissioners acting under the authority of the said first-
d act; be it enacted, and it is hereby declared, That the said court
view and the said several subdivision courts respectively shall
eforth be, and shall be deemed and taken from and after the passing
e said first-recited act to have been courts of record, and shall and
have and exercise all such powers of commitment as were vested in
missioners of bankrupt acting as such at the time of the passing of
said first-recited act, and shall and may have, use, and exercise all
powers, rights, privileges, and incidents of a court of record, as
to all intents and purposes as the same are used, exercised, and
yed by any of his Majesty's courts of law at Westminster; and all
rs heretofore pronounced and all acts done by the said court of
aw and subdivision courts respectively shall be deemed and taken to
been pronounced and done by the said courts respectively as courts
ecord; and every judge or commissioner appointed or to be ap-
ited by virtue of the said first-recited act sitting alone and acting in
ution of the duties imposed upon him as such judge or commis-
er shall have, use, exercise and enjoy all the powers, rights, privi-
s, and exemptions of a court of record: Provided always, That
ing herein contained shall be deemed or taken to authorize or em-
er any such judge or commissioner sitting alone to impose any fine
ommit for a contempt of court, but every contempt of any such
ge or commissioner sitting alone and acting as aforesaid shall be
nizable by the said court of review, to which the same may be re-
ed by any such judge or commissioner as aforesaid; and the said
rt of review shall have full power to deal with the same as a con-
pt of the said court of review: Provided also, That nothing herein
tained shall be deemed or taken to diminish or affect the power by
said first-recited act given to any such judge or commissioner of
mitting any person examined before him to any messenger or other
cer of the court of bankruptcy.

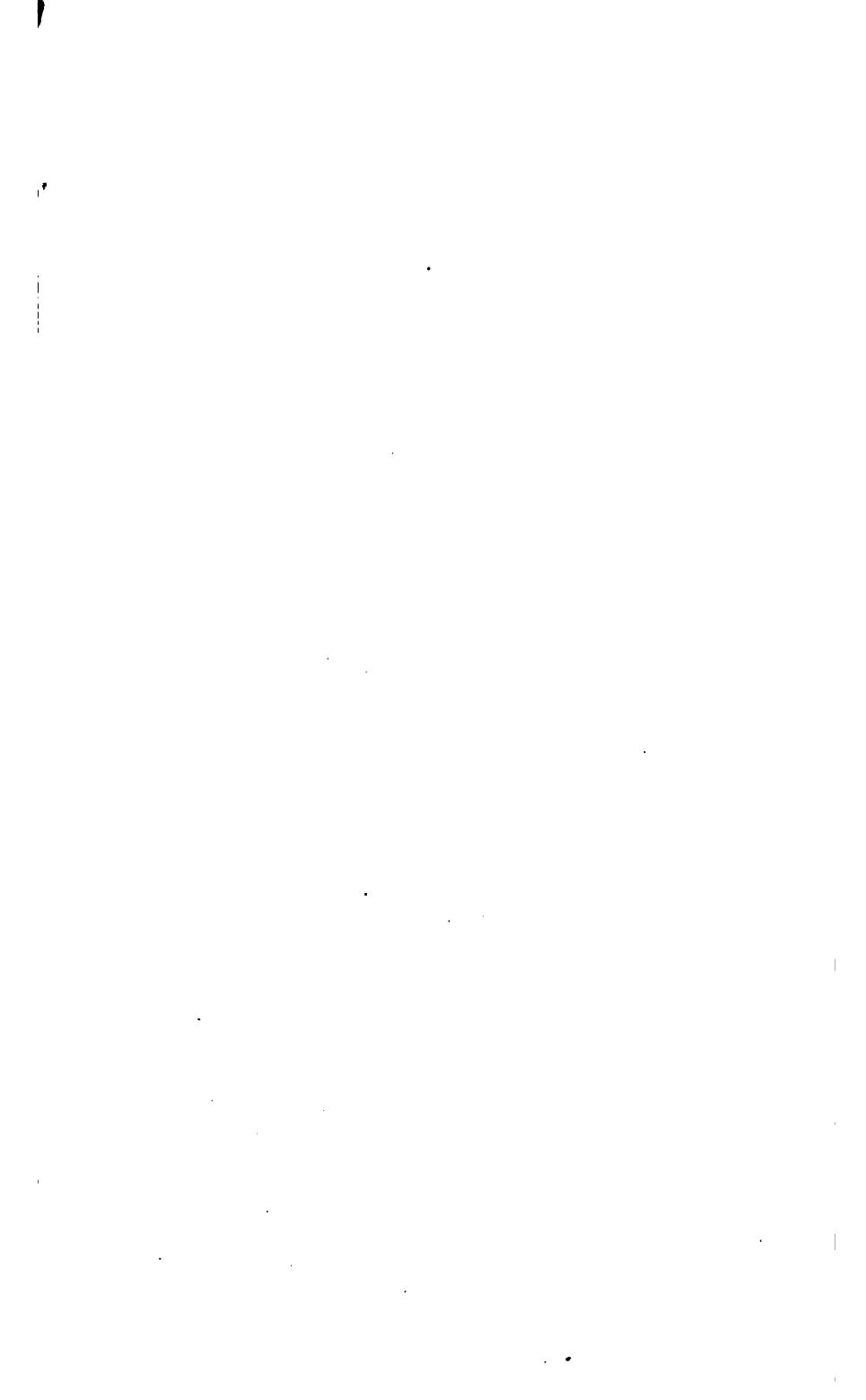
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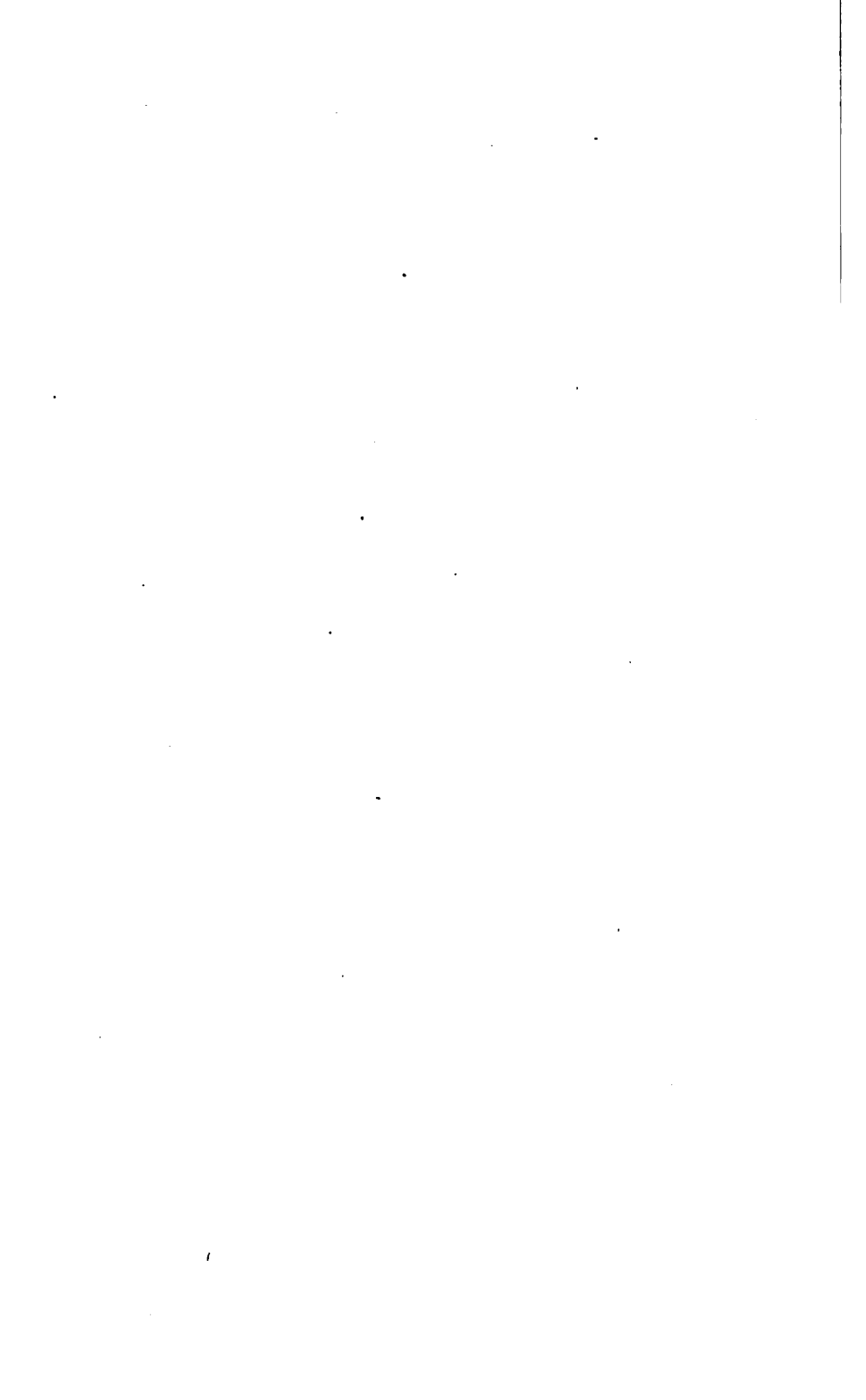
XXVI. That the powers and authorities given by this act to the lord
h chancellor shall and may be exercised in like manner and are
eby given to the lord keeper or lords commissioners for the custody
the great seal respectively for the time being.
XXVIII. That this act shall be deemed and taken to be a public act,
l shall be judicially taken notice of as such by all judges, justices,
l others, without being specially pleaded.

As to the exer-
cise of the
powers given
by this act.
Public act.

END OF PART IV.—CLASS XXVIII. .







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